

In the Matter of:)
)
Application for Certification) Docket No.
for the Blythe Energy Project) 99-AFC-8
(Blythe Energy, LLC))

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

William J. Keese, Chairman, Presiding Member

Terry O'Brien, Special Assistant to Chairman Keese

Ed Bouillon, Hearing Officer

STAFF PRESENT

Roberta Mendonca, Public Adviser

Lisa DeCarlo

Lance Shaw

Kevin Kennedy

James Fore

Michael Ringer

Richard Sapudar

Melinda Rivasplata, Staff Consultant

Linda Bond, Staff Consultant

APPLICANT

John Grattan

Scott Galati

Grattan and Galati

Thomas Cameron, Project Director, Blythe Energy

Robert Looper, Blythe Energy

INTERVENOR

Carmela Garnica

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1 P R O C E E D I N G S

2 PRESIDING MEMBER KEESE: Good afternoon,
3 ladies and gentlemen. I am Bill Keese, Presiding
4 Member of this siting case for the Blythe Energy
5 Project, 99-AFC-8 is our docket number.

6 I am joined this morning by my -- our
7 Hearing Officer, Ed Bouillon, on my left, and
8 Terry O'Brien, my advisor, to my right.
9 Commissioner Bob Laurie, who's the other member of
10 this Committee, is not present.

11 We are going to -- fortunately, it's
12 exactly 1:15, which makes this easy. We've had a
13 request from the parties, and we're going to --
14 I'll ask Mr. Bouillon to explain it and what our
15 next step will be.

16 Mr. Bouillon.

17 I'm sorry. Mr. Chevance of Western Area
18 Power Administration is here. This is a jointly
19 conducted hearing. Would you like to make a
20 statement at this time?

21 MR. CHEVANCE: I'll just address
22 everyone with my back. My name is Nick Chevance,
23 Western Area Power Administration. We're doing
24 this analysis, environmental analysis, jointly
25 with the California Energy Commission Staff, and

1 part of our analysis is to make sure that the
2 public has an opportunity to comment on the
3 project, and that's why we're in attendance at the
4 hearings today, to make sure the public has that
5 opportunity.

6 And if anyone has any questions of
7 Western about its participation, please feel free
8 to contact me in any way you can.

9 Thank you.

10 PRESIDING MEMBER KEESE: Thank you.

11 Mr. Bouillon, would you explain the
12 request and how we're going to handle it?

13 HEARING OFFICER BOUILLON: Yes. Just
14 prior to the start of this hearing I was handed an
15 additional condition by the counsel for the Staff,
16 it's called Soil and Water 12, and I was led to
17 believe that the Applicant had not yet seen that,
18 a fact later confirmed by Mr. Galati. And both
19 Staff and Applicant seemed to think that if they
20 could have about half an hour, they might not only
21 be able to work out the terms of that condition,
22 but an additional -- the additional condition I
23 think is Soil and Water 7, is it? That has some
24 -- they have some minor differences.

25 And so I've discussed that with Chairman

1 Keese, and he's decided that it would be best if
2 we did adjourn this for 30 minutes and let the
3 parties, including Mrs. Garnica, as an Intervenor,
4 discuss this -- these two conditions and see if
5 they can resolve them. And it would seem to be
6 the best use of the Committee's time at this
7 point.

8 So we will recess this hearing for 30
9 minutes, and we will reconvene here at that time.

10 PRESIDING MEMBER KEESE: 1:45, we will
11 reconvene at 1:45.

12 HEARING OFFICER BOUILLON: And if the
13 parties want to work here, we'll go outside. If
14 you can find a conference room --

15 (Off the record.)

16 PRESIDING MEMBER KEESE: We're back on
17 the record.

18 I'll make a couple of introductory
19 remarks.

20 We've set aside two days of hearings
21 here. We're hoping that we can complete the
22 hearings at this time, in that time. But just in
23 case we need it, we have also set a date of
24 Thursday in Sacramento, at which we would take
25 principally the items remaining by stipulation, if

1 necessary.

2 This proceeding is taped and
3 transcribed, so we ask that you speak as slowly
4 and as clearly as you can. If you have an unusual
5 last name, please help us by spelling it. Our
6 court reporter appreciates that.

7 If you have written testimony that
8 amplifies or tells in detail what you are telling
9 us, we really should have that already.

10 This Committee is handling this matter.
11 I am going to now turn to the Applicant and Staff,
12 and then the Intervenors, to introduce themselves.

13 Mr. Galati.

14 MR. GALATI: My name is Scott Galati, I
15 represent the Applicant, Blythe Energy.

16 MR. GRATTAN: And I'm John Grattan, co-
17 counsel.

18 PRESIDING MEMBER KEESE: Thank you.

19 MR. GRATTAN: And Scott, if you'd
20 introduce --

21 MR. GALATI: Oh, I'm sorry. Mr. Tom
22 Cameron, on behalf of the Applicant, as well as
23 Mr. Rob Muehlenkamp and several members associated
24 with the Greystone Environmental team are with us,
25 as well as Rob Holt, our engineer.

1 PRESIDING MEMBER KEESE: Thank you.

2 Mr. Shaw, on behalf of Staff.

3 MR. SHAW: Lance Shaw, the Siting
4 Project Manager for the Blythe Energy Project.

5 Lisa DeCarlo, Staff Counsel. Linda
6 Bond, Water consultant. Melinda Rivasplata, Land
7 Use. George Perkins is with Western, I'm not sure
8 whether Nick is going to introduce the Western
9 folks or not. Nick Chevance, Mary Gardner. And
10 we have a number of other people who I don't see
11 at the moment.

12 PRESIDING MEMBER KEESE: Thank you. And
13 Ms. Garnica.

14 MS. GARNICA: Carmela Garnica, Blythe,
15 and my spouse, Rigoberto Garnica, Intervenors for
16 the Blythe Energy Project.

17 PRESIDING MEMBER KEESE: Thank you. And
18 we do not have anybody from CURE, do we?

19 Thank you. I will mention that we now
20 have agendas in English also on the back table,
21 for those who may have checked earlier as you
22 walked in.

23 Do we have any other governmental agency
24 which wishes to identify themselves at this time?
25 It does not preclude testimony or comment later.

1 Seeing -- we do have Ms. Mendonca here,
2 Roberta Mendonca is in the room in case anybody --
3 I think everybody is familiar with Roberta. If
4 not, she's there to help you if you need to find
5 out how to participate in our proceedings.

6 We're going to conduct this in as open a
7 manner as possible. But we do want to say this is
8 a formal proceeding. We're going to try to stay
9 on our schedule, which means we'll take up this
10 issue now, and hopefully finish it by 5:00
11 o'clock. Then we're going to, as I understand it
12 now, be back from 7:00 to 10:00, is it? We're
13 slated to restart at 7:00 o'clock. And then we
14 will start again tomorrow morning at 8:00 a.m.

15 We're going to try to find out where the
16 information gaps are and what's still to be found,
17 try to get clarity on these issues that are up in
18 the air at the current time. As I say, we'll be
19 as loose as we can on handling this, but this is a
20 formal proceeding. This is not a round robin of
21 testimony and reiteration and further reiteration.
22 We expect you to get your points out on the table
23 and we'll debate them as clearly as we can. We
24 will either make a decision or take them under
25 submission.

1 I am now going to turn this over to Mr.
2 Bouillon to handle the testimony. Mr. Bouillon.

3 HEARING OFFICER BOUILLON: Thank you,
4 Chairman.

5 I'd like to take care of a few
6 housekeeping matters before we begin.

7 For the record, this hearing was noticed
8 publicly on November the 7th, and I believe
9 everyone on the service list was mailed a copy of
10 that notice. That notice did not contain the
11 order in which we'll be proceeding today, and I'd
12 like to cover that at this time.

13 What we're going to try and cover before
14 5:00 o'clock are an Opening Statement by the
15 Applicant, which will include a description of the
16 project, and then we're going to take up the Water
17 and Land Use issues. Hopefully, we will have some
18 time at the conclusion of those issues to discuss
19 stipulations. If not, we will defer them until a
20 later time, when we have a break in the sequence.

21 When we come back at 7:00 o'clock, we
22 will begin not necessarily with Biological
23 Resources, but we will cover the issues that are
24 generally of interest to the people in the
25 community, and that specifically Ms. Garnica has

1 announced an interest in at the Pretrial
2 Conference. Those issues, not necessarily in any
3 order, will be Hazardous Materials, Biological
4 Resources, Socioeconomics, Public Health,
5 Alternatives, and Project Design.

6 We will try and conclude all of those by
7 10:00 o'clock tonight. If we don't, we'll finish
8 at 8:00 o'clock tomorrow morning. But at 8:00
9 o'clock tomorrow -- I'm sorry, I made a mistake.
10 Biological Resources will be taken up tomorrow,
11 beginning at 8:00 o'clock, if we finish all the
12 other topics.

13 At the conclusion of the Biological
14 Resources part of the testimony, we will continue
15 with the -- to take stipulations until noon, when
16 we will adjourn this hearing. If we have not
17 concluded all of the evidence, we will reconvene
18 on Thursday in Sacramento, at the California
19 Energy Commission, as set forth in the notice.

20 Hopefully, that day will not be
21 necessary at all, and if it is necessary, it will
22 only be for the purpose of taking stipulations.

23 We will make every effort to resolve or
24 take all the testimony we're going to take on the
25 issues that are of interest to the people in the

1 community here, including the Intervenor, Ms.
2 Garnica.

3 I'd also like to call your attention to
4 an exhibit list that we're going to be preparing.
5 I've been handed one by the Applicant, Mr. Galati,
6 the attorney for the Applicant handed me one at
7 the beginning of this hearing. He lists some, I
8 believe his highest number is 48, and we will use
9 the number he has assigned for each of his
10 exhibits. We will then begin any additional
11 exhibits that are marked and identified with
12 Number 49. But before you start marking Number
13 49, let me finish my statement here.

14 I'd like to tell you, as Chairman Keese
15 has told you, that these proceedings are formal in
16 nature, and everyone will -- that testifies will
17 do so under oath or affirmation. The party
18 sponsoring a witness will first briefly establish
19 the witness's qualifications, if that person is an
20 expert witness, and have the witness very, very
21 briefly summarize their written testimony, which
22 has already been filed.

23 After cross examination and any redirect
24 testimony, if necessary, we will then move the
25 written testimony of that witness into evidence,

1 if there is no objection. If there is an
2 objection, we will discuss those objections and
3 make a ruling on that.

4 One of the things I want to say about
5 the presentation of evidence has to do with how
6 we're going to -- who's going to ask the
7 questions. Every party has a right to ask
8 questions. But I'm sure, at least the public
9 understands that the more lawyers you get in a
10 room, the more noise you get. So for each party,
11 and the parties we have present today, are the
12 Applicant, the Staff, and the Intervenor. That's
13 three parties. For any one witness, the Applicant
14 will designate one of their attorneys to question
15 that witness. The Staff will designate one of
16 their personnel to question that witness. And the
17 Intervenor, Ms. Garnica, either you or your
18 husband will ask questions, but not both of you.

19 One thing I do want to note for the
20 record at this time is that on Wednesday afternoon
21 at 4:23, I received a telephone call in my office
22 in Sacramento from a man who identified himself as
23 Bradley Angel, A-n-g-e-l, who said he was the
24 director of an organization called GreenAction for
25 Health and Environmental Justice, at 915 Cole

1 Street, Box 249, in San Francisco.

2 He informed me that he had not received
3 notice of this hearing in a timely fashion, and
4 that he was entitled to such notice. I was
5 entirely unfamiliar with him or his organization,
6 and I will state for the record that I had had no
7 prior contact with him myself.

8 Upon further investigation, through the
9 good offices of Roberta Mendonca, we were able to
10 determine that he in fact had contacted the Siting
11 Division of the California Energy Commission some
12 three weeks ago, approximately, and asked to be
13 put on the various mailing lists for all of the
14 projects in California. The Siting Division did
15 not do that, and apparently no one else did,
16 either. And he apparently did not receive notice.
17 He -- in any event, he would've been too late to
18 intervene in this case without good cause shown,
19 and I'm not aware whether or not he could
20 demonstrate any.

21 But I wanted to note for the record that
22 he did make such a claim, that further hearings
23 may be necessary because he was not provided
24 adequate notice.

25 I make no comment on the validity or

1 lack of validity of his comments, but did want to
2 include that in the record.

3 In addition, at the Pretrial Conference,
4 the second day of the Prehearing Conference that
5 we conducted by telephone, in which the
6 Intervenor, Ms. Garnica, participated, it was
7 agreed by all of the other parties that the -- the
8 declarations that she had prepared on behalf of
9 various people in the community would be received
10 in evidence. At the time the parties stipulated
11 to that we were in possession of 12 of those
12 declarations.

13 Since that time, I've become aware that
14 there are 22 declarations, and I have discussed
15 this privately with both the Applicant, Mr.
16 Galati, and with Staff Counsel, Lisa DeCarlo, and
17 it's my understanding that you have both agreed
18 that, in fact, your stipulation would extend to
19 all 22 declarations. Is that correct, Mr. Galati?

20 MR. GALATI: That's correct.

21 HEARING OFFICER BOUILLON: And Ms.
22 DeCarlo?

23 MS. DE CARLO: Yes, that's correct.

24 HEARING OFFICER BOUILLON: All right.

25 And it's -- it's my understanding that the

1 Committee's prepared to adopt that stipulation.

2 So those -- those 22 declarations will
3 be jointly admitted into evidence at this time.
4 First they'll be marked as Exhibit Number 49, and
5 they will all be admitted into evidence.

6 (Thereupon Exhibit 49 was marked for
7 identification and was received into
8 evidence.)

9 HEARING OFFICER BOUILLON: There's also,
10 my understanding, that both the Staff and the
11 Applicant have stipulated that none of those
12 witnesses need be present, that there would be no
13 cross examination of those witnesses. Is that
14 correct, Mr. Galati?

15 MR. GALATI: That's correct.

16 HEARING OFFICER BOUILLON: Ms. DeCarlo?

17 MS. DE CARLO: Yes.

18 HEARING OFFICER BOUILLON: Thank you.

19 It is also my understanding that there
20 is a great many topic areas in which the Staff and
21 the Applicant have agreed that the evidence can
22 come in by stipulation, but the witness will
23 nevertheless be sworn for purposes of cross
24 examination by Ms. Garnica, and we'll deal with
25 those issues as they come up, one by one.

1 I believe we're ready to begin.

2 Chairman Keese, do you have anything you want to
3 add?

4 All right. We'll begin with an opening
5 statement by Mr. Galati. And I understand he's
6 going to begin -- include in that opening
7 statement a description of the project, to a
8 certain extent.

9 MR. GALATI: And actually, like any good
10 lawyer, I'll defer to my client that knows more
11 about their product than I do. I'd like to
12 introduce Mr. Tom Cameron, who will brief the
13 Committee on the project description.

14 MR. CAMERON: I have some slides here.
15 Is this -- is that one for the record? Okay. So
16 I need to stand in front of the microphone?

17 MR. GALATI: Can you hear him okay?

18 MR. CAMERON: Because I'm going to be
19 facing this way. As long as you can hear me, it
20 gets recorded?

21 HEARING OFFICER BOUILLON: I think face
22 the microphone.

23 MR. CAMERON: Okay. My name is Tom
24 Cameron, I'm the Project Director for Blythe
25 Energy.

1 I'm here today to give you a few minute
2 overview on the Project Description.

3 First of all, I'd like to thank the City
4 of Blythe for hosting this meeting. These are
5 quite fine accommodations here.

6 For those of you that were here in May,
7 we started this process, the formal process with
8 the Energy Commission in public hearings in May
9 4th, and we provided a presentation of the
10 project. I'm going to go through some of that as
11 well today, just to give everyone a history of --
12 of where the project has been, and what -- what
13 it's comprised of.

14 For those of you that aren't familiar
15 with Blythe and where our project is located, we
16 are west of the center of Blythe, and about a mile
17 from the Blythe Airport.

18 This project has been under development
19 for over two years now, and a lot of folks have
20 come to us and asked us why Blythe, why did we
21 pick Blythe. And some of the reasons here are on
22 this slide.

23 First of all, it's close to natural gas
24 and it's close to electrical transmission. We're
25 only about -- less than a thousand feet from the

1 Blythe Substation, which is our main interconnect
2 point. We're close to the highway, we're close to
3 rail access, we're close to water. And most
4 importantly here, we have the City of Blythe, who
5 we're trying to bring some economic value to.

6 The project that we have proposed is a
7 520 megawatt project. It's state of the art
8 technology. It uses Siemens Westinghouse gas
9 turbine technology. Each gas turbine's rated at
10 approximately 170 megawatts. These gas turbines
11 are in operation in several locations in the
12 country. They are highly efficient, and
13 environmentally friendly, as I'll show you on some
14 of the later slides that I have.

15 Some of the things that we're doing to
16 improve the efficiency of the project is -- is
17 adding a system, a feature called inlet chilling,
18 which helps -- using a refrigeration cycle,
19 basically -- reduce the air temperature that goes
20 into the gas turbines. It makes it operate more
21 efficiently.

22 We are using water cooled condensers,
23 and that'll be one of the subjects of a later
24 discussion that we have on -- on water. Soils and
25 Water.

1 We are -- we have done several things
2 through our -- through our technology to minimize
3 the amount of water that we are using. For
4 example, we're using an evaporator system which
5 takes water from the process on the waste side of
6 the power plant and -- and recycles that water by
7 basically evaporating off through kind of a
8 distillation process and taking clean water and
9 putting it back in. So we're not just sticking
10 water into an evaporation pond, we're not throwing
11 it away. We're doing everything we can that's
12 economically feasible to minimize the water use.

13 Some of our siting details. We have a
14 76 acre site. As I said, it's located west of the
15 city. We have completed -- or the city has
16 completed, actually, the annexation process. So
17 now the site property is -- is located within the
18 City of Blythe.

19 We have two alternate gas
20 interconnections which we have proposed in all of
21 our documentation throughout the application
22 process, and certification process. We are
23 constructing a new substation that will be
24 compatible with 230 -- 230 kV design. It will be
25 -- initially be potentially 161 kV, but it's being

1 designed so that it can be upgraded to 230 very
2 easily.

3 The substation will be owned by Western.
4 It will be built to Western's standards. And I
5 think the last point I wanted to mention is we
6 have three wells on site to take out -- to give us
7 our water supply.

8 Is this in focus? I can do this a
9 little better. That's better. Wasn't sure if it
10 was my eyesight.

11 This is our 76 acres, and we show right
12 now two evaporation ponds. The size of these
13 ponds could be a little bit smaller. That'll be
14 determined through our optimization of our design.
15 At the left side of the slide is actually south.
16 That borders Hobson Way. And on the north side,
17 we have our power plant where we generate
18 electricity.

19 So the power plant is over in this area
20 here, evaporation ponds, and the Western
21 substation is right in here.

22 PRESIDING MEMBER KEESE: And would you
23 -- you said 76 acres. What is our size -- help me
24 out. Are you a half-mile by quarter-mile, or --
25 give me a rough idea of the size of that parcel,

1 would you.

2 MR. LOOPER: That's about correct.

3 MR. CAMERON: Right here -- now I've got
4 a red pointer here. This is Buck -- Buck
5 Boulevard. And this road will eventually be
6 paved. It'll provide the access to the plant. It
7 also continues on up north and goes through Sun
8 World's property. Sun World is a -- a grower of
9 lemon trees.

10 This is probably hard to see, but just a
11 little bit about transmission. Right here, in the
12 middle here, is Blythe, the Blythe Substation.
13 And you can see a couple lines that go north to
14 Parker, a line that goes west to Eagle Mountain,
15 that's a Southern Cal Edison line. A line that
16 goes down into -- into IID's territory. Another
17 line which goes to -- which is the Western line.

18 This was another point of why we picked
19 Blythe. It interconnects with five 161 kV
20 transmission lines.

21 A couple points about air quality.
22 There are really -- there are, I guess I would say
23 two standards that -- that we have to follow when
24 permitting a project. One of them is the state's
25 standards, which in the case of this project is

1 more stringent than the federal standards. The
2 federal EPA classifies the Blythe area as
3 attainment or it's unclassified. The state,
4 however, classifies it as non-attainment for PM10,
5 and the ozone precursors, NOx and VOCs.

6 We have designed our equipment, our gas
7 turbines and the technology behind it, to achieve
8 two and a half ppm for NOx, five ppm for CO, in an
9 unfired condition, and unfired means we -- we
10 don't have duct firing. And I'll explain a little
11 bit later what duct firing is all about. And 8.4
12 if we are -- if we're using duct firing. Also, we
13 have 10 ppm on ammonia slip.

14 For combustion controls, we're using the
15 combustion technology. We're also having a SCR, a
16 selective catalytic reduction for NOx emissions.
17 It uses ammonia. The 10 ppm ammonia slip is
18 basically what goes up the stack. That's not --
19 that's not converted.

20 We have purchased our emission reduction
21 credits. One of the things that we're required to
22 do to mitigate or to offset the emissions that we
23 produce is to buy credits that are currently
24 banked. That means they've been taken out of --
25 out of use, we've secured those, and a couple of

1 weeks ago we received approval from South Coast --
2 excuse me -- to transfer those credits into the
3 Mojave district.

4 The EPA Draft Permit should be issued
5 within the next few days. We spoke recently with
6 the EPA and they are pretty close to -- to issuing
7 it.

8 A couple points about water. As I said
9 before, we have three groundwater wells. We have
10 an annual use on an average basis of 1800 gallons
11 per minute. The water that we're using is what we
12 would call low quality. It's brackish water, it
13 has solids that are higher than 1,000. We have
14 done analysis, the Staff has done analysis. I
15 think we're -- we're close to agreement on the
16 results of those analysis. But we've shown that
17 there is -- there is an insignificant impact to
18 the groundwater table as a result of building the
19 project here.

20 Water concentrator technology, I spoke
21 before about some of the technology we were
22 including so that we minimize the amount of water
23 that we're using. That's the evaporator system.
24 We have water that's being discharged to the
25 evaporation ponds that will -- the water will

1 evaporate off and the solids will stay in the
2 ponds.

3 We've also entered into a water
4 conservation offset program. We have a long term
5 agreement with the City of Blythe to use the
6 airport land which had been previously irrigated,
7 take those basically out of -- out of use for
8 production.

9 Some of the benefits to the city, as I
10 said, we have been working with the City of Blythe
11 for several years. The project was initially
12 developed with the gentleman here, Bob Looper,
13 from Summit Energy. He started the initial
14 conversations.

15 We've -- we've tried to -- to be a
16 friendly neighbor. We've tried to make sure that
17 the programs that we put in place are ones that
18 benefit the -- the economy for the City of Blythe
19 over the long term. We believe that we'll create
20 some employment opportunities through construction
21 and through long term operation of the plant.
22 Certainly during construction, there will be a
23 number of workers here. They'll be spending money
24 in this town, they'll be bringing economic value
25 to this town.

1 We've also, through our -- our taxes,
2 negotiations through with Riverside County, and
3 the City of Blythe, believe that substantial
4 amount of funds will be brought to the city so
5 they can improve the infrastructure within the
6 city, such as schools.

7 I think that's about all I had to say on
8 Project Description.

9 MR. GALATI: We're ready to proceed to
10 Water and Land Use. I believe we were going to
11 take those as a panel.

12 HEARING OFFICER BOUILLON: Yes.

13 MR. GALATI: I'd like to call at this
14 time Jeff Harvey, with Greystone Environmental
15 Consultants, as well as Marc Sydnor with Greystone
16 Environmental Consultants, and Sally Zeff,
17 Greystone Environmental Consultants, as a panel.

18 Ms. Zeff, will you please give your
19 name, address, and current employment for the
20 record?

21 MS. ZEFF: My name is Sally Zeff, and --
22 okay. My name is Sally Zeff, and I'm employed by
23 Greystone Environmental Consultants, 650
24 University Avenue, Sacramento, California.

25 MR. GALATI: And Ms. Zeff, could you

1 please briefly summarize your qualifications for
2 the Committee?

3 MS. ZEFF: I have a Master's degree in
4 urban planning and 20 years of experience as an
5 environmental and land use planner.

6 MR. GALATI: And have you prepared and
7 previously submitted written testimony in this AFC
8 proceeding?

9 MS. ZEFF: Yes, I have.

10 MR. GALATI: And would that be the Land
11 Use testimony as part of the Applicant's testimony
12 package?

13 MS. ZEFF: Yes, it is.

14 MR. GALATI: And I believe that is
15 identified as Exhibit Number 2.

16 Are you also sponsoring any exhibits
17 today?

18 MS. ZEFF: Yes, I am. Exhibit 1, AFC,
19 and Errata Section 7.2; Exhibit 43, Responses to
20 the CEC Data Request Numbers 50 through 58; and
21 Exhibit 49, which is --

22 MR. GALATI: I -- I'll have to stop you
23 there. I need to get this next exhibit marked.
24 If you could just read what that exhibit is?

25 MS. ZEFF: It's a Resolution of the City

1 of Blythe approving the annexation, dated October
2 12th, as adopted.

3 MR. GALATI: Could I please have that
4 marked as Exhibit 50. It is the resolution from
5 the City of Blythe approving the annexation on
6 10/12/2000.

7 HEARING OFFICER BOUILLON: Do you have a
8 copy of that handy?

9 MR. GALATI: Yes, I do, Mr. Bouillon.
10 It's a little bit out of reach. Do you want me to
11 take -- get that down, or can I give it to you --

12 HEARING OFFICER BOUILLON: Just provide
13 it to me before we recess today.

14 MR. GALATI: I certainly will. It's
15 right over there.

16 HEARING OFFICER BOUILLON: And you're
17 marking that Number 50?

18 MR. GALATI: Number 50, please.

19 (Thereupon Exhibit Number 50 was
20 marked for identification.)

21 MR. GALATI: Do you have any additional
22 exhibits that you're sponsoring today?

23 MS. ZEFF: No.

24 MR. GALATI: Can you affirm that
25 previously written testimony under oath today?

1 MS. ZEFF: Yes, I can.

2 MR. GALATI: And does that testimony
3 reflect your best professional judgment and
4 opinions?

5 MS. ZEFF: Yes, it does.

6 MR. GALATI: Do you have any corrections
7 or modifications to that testimony?

8 MS. ZEFF: No, I don't.

9 MR. GALATI: Would you please briefly
10 summarize your testimony for the Committee.

11 MS. ZEFF: Certainly. The Blythe Energy
12 Project --

13 MS. GARNICA: Excuse me. You know, I
14 don't have one of those copies. Was I supposed to
15 get one of those?

16 HEARING OFFICER BOUILLON: You're
17 talking about the annexation resolution?

18 MS. GARNICA: What they're reading --

19 HEARING OFFICER BOUILLON: Yes, you
20 should be provided one.

21 MR. GALATI: Yeah, I believe that that
22 was docketed. And I will certainly get a copy
23 made. But those exhibits I'm talking about have
24 been docketed and properly served.

25 MS. GARNICA: Okay. And a copy of the

1 list that you are reading off?

2 HEARING OFFICER BOUILLON: The
3 testimony, you're talking about?

4 MR. GALATI: I apologize. This exhibit
5 list?

6 MS. GARNICA: Yes.

7 MR. GALATI: I apologize, Ms. Garnica.
8 If I could have an extra copy.

9 MS. GARNICA: Thank you.

10 MR. GALATI: If -- if I could -- could
11 explain to the Intervenor. The list I just gave
12 you is an exhibit list. And it is items that were
13 previously docketed. Some may have been docketed
14 and served before you were an Intervenor, so you
15 -- I don't know whether you have copies of
16 everything on there. But if there is something
17 that you need, if you could let me know we'll see
18 if we have a copy for you here today.

19 I'm sorry. Ms. Zeff, could you please
20 briefly summarize your testimony on Land Use?

21 MS. ZEFF: Okay. The Blythe Energy
22 Project is part of an annexation area which has
23 been annexed to the City of Blythe. I analyzed
24 the surrounding land uses and found that there
25 were no significant impacts related to land use,

1 no significant impacts related to agricultural
2 use, including the water conservation offset
3 program.

4 I believe that the project will also
5 comply with all applicable LORS.

6 We agree with the Final Staff Assessment
7 and the Supplemental Testimony. The Final Staff
8 Assessment correctly points out that the City of
9 Blythe has granted a variance for the project. We
10 need to note that the Supplemental Staff Testimony
11 states that the annexation is not final. The
12 annexation was finally approved by the City of
13 Blythe, the City Council, on October 12th, 2000.
14 Following the adoption by the county of the fire
15 service agreement tomorrow, the annexation can be
16 recorded. But it has received all approvals by
17 the City of Blythe.

18 Staff accepted our changes to conditions
19 Land Use 2, and for deletion of Land Use 5. Staff
20 did not accept our changes condition Land Use 4.
21 We're still asking for more flexibility in the
22 timeframe for submittal of the site development
23 plan.

24 MR. GALATI: At this time I'd like to
25 identify Dr. Harvey.

1 Mr. Harvey, could you please give your
2 name, business address, and current employment?

3 DR. HARVEY: I am Jeff Harvey, Group
4 Manager for Greystone Environmental Consultants,
5 at 650 University Avenue, Suite 100, Sacramento,
6 California, 95825.

7 MR. GALATI: And could you please
8 summarize your qualifications for the Committee?

9 DR. HARVEY: I have a Ph.D. in
10 Geography, emphasis in environmental impact
11 analysis and water resources from UCLA; a Master's
12 Degree in Geography, emphasis in water resources
13 impact assessment from CSU Chico; a Bachelor's
14 Degree in Geography from CSU Chico. And I've been
15 a consultant environmental scientist for the last
16 21 years.

17 MR. GALATI: And Dr. Harvey, you've
18 prepared and previously submitted written
19 testimony in this AFC proceeding?

20 DR. HARVEY: Yes, I have.

21 MR. GALATI: Would that be as a joint
22 author of the Land Use testimony and a joint
23 author of the Water Resources testimony, as part
24 of the Applicant's package identified as Exhibit
25 Number 2?

1 DR. HARVEY: Yes, it would be.

2 MR. GALATI: And are you sponsoring any
3 exhibits at this hearing?

4 DR. HARVEY: Yes. I am sponsoring
5 Exhibits 1, 2, and 24 through 41.

6 MR. GALATI: We have previously filed
7 testimony. Can you affirm that testimony under
8 oath today?

9 DR. HARVEY: Yes, I can.

10 MR. GALATI: And does that testimony
11 reflect your best professional judgment and
12 opinions?

13 DR. HARVEY: Yes, it does.

14 MR. GALATI: Do you have any corrections
15 or modifications to that testimony?

16 DR. HARVEY: No. I suppose this measure
17 that we've worked out with Staff in the workshop
18 just previous to this hearing is something that we
19 talk about later, or is that something we do
20 introduce now?

21 MR. GALATI: Would Staff be marking that
22 as an exhibit, or would you like us to mark that
23 as an exhibit?

24 MS. DE CARLO: You can go ahead and mark
25 that, if that's appropriate.

1 MR. GALATI: Yes, it is. So I have
2 before me a copy of Soil and Water Measure 12 that
3 has been edited in agreement with Rich Sapudar of
4 the Energy Commission Staff. He has an equal copy
5 of this. We read it through together, to make
6 sure we both recorded the same changes. I'll
7 leave it to him to affirm that. And I would enter
8 my copy of that. We can make multiple copies of
9 this in -- into the record.

10 MR. GALATI: Could we have that marked
11 as Exhibit Number 51, please?

12 HEARING OFFICER BOUILLON: And that's as
13 amended?

14 MR. GALATI: Yeah, that's as amended.
15 It is a handwritten -- it is a typed version of
16 Soil and Water 12, delivered today at the hearing,
17 and it has been marked up in blue pen.

18 HEARING OFFICER BOUILLON: That will be
19 marked Exhibit Number 51.

20 (Thereupon Exhibit 51 was marked
21 for identification.)

22 MR. GALATI: Thank you.

23 Before I have you summarize your
24 testimony, if I could please identify for the
25 record Mr. Mark Sydnor.

1 Mr. Sydnor --

2 HEARING OFFICER BOUILLON: Excuse me.

3 I'd like to have the witness, to make sure we're
4 all talking about the same blue markings, if he
5 could read Soil and Water 12, as it has been
6 amended, into the record.

7 MR. GALATI: That would be excellent.

8 And --

9 HEARING OFFICER BOUILLON: And then
10 provide the Committee with copies of that later in
11 the hearing.

12 DR. HARVEY: And if I may have Mr. Rich
13 Sapudar, who has his copy of it, read along with
14 me, and -- and speak up if I've missed something.

15 MR. SAPUDAR: I'll do that.

16 DR. HARVEY: Thank you, Rich.

17 Soil and Water 12, is the heading. The
18 language begins.

19 "It has been determined that
20 the authorized use of Colorado River
21 water derived from groundwater by the
22 project's owner must be in accordance
23 with PVID's existing entitlement and
24 contract with the United States
25 Bureau of Reclamation. The 3,000

1 acre/feet per year of groundwater the
2 project intends to use is considered
3 to be Colorado River water resulting
4 from hydraulic continuity with the
5 river itself.

6 "The project is required to
7 maintain the Long Term Irrigation
8 Rights Agreement, (LTIRA), between
9 the City of Blythe and the project's
10 owner for the life of the project
11 in order to satisfy the LORS
12 requirements for authorized use of
13 Colorado River water.

14 "The LTIRA must contain all
15 provisions of the Water Conservation
16 Offset Program, (WCOP), contained as
17 an attachment to the USBR's letter
18 of August 9, 2000 (from Robert Johnson
19 of USBR to Robert Therkelsen, of the
20 CEC).

21 "The project will not operate
22 without this agreement in place. The
23 requirement for the WCOP/LTIRA" -- and
24 what I would like to do going forward is read all
25 of the acronyms in their full, rather than using

1 the acronyms, just hopefully for clarity here.

2 HEARING OFFICER BOUILLON: The acronyms
3 will suffice.

4 DR. HARVEY: They will suffice. Fine.

5 "The requirement for the
6 WCOP/LTIRA does not constitute any
7 agreement of the CEC Staff with the
8 project's owner regarding the
9 capacity of the LTIRA as currently
10 written to conserve the same amount
11 of water the project will use as
12 discussed in both the FSA and in
13 the supplemental Soil and Water
14 Resources testimony."

15 That's the end of the measure.
16 Verification, second subheading.

17 "Ninety days prior to the
18 start of operation, verification
19 that the WCOP/LTIRA is in effect
20 will be provided by a letter from
21 an authorized agent of the project's
22 owner to the CPM. Any changes to
23 the LTIRA will be noticed 120 days
24 prior to the effective date of the
25 proposed change and will require

1 the approval of the CPM. A draft
2 of any revised LTIRA will be
3 provided to the CPM at least 90
4 days prior to the effective date
5 of the proposed change for review
6 and approval. Should the LTIRA be
7 revised the project will not
8 operate without a determination
9 by the CPM to be in compliance" -- I
10 missed some words here.

11 MR. GALATI: About the LTIR determined
12 --

13 DR. HARVEY: Pardon me. Let me go back
14 on that.

15 "The draft of any revised LTIRA
16 will be provided to the CPM at least
17 90 days prior to the effective date
18 of the proposed change for review and
19 approval. The project will not operate
20 without an LTIRA determined by the CPM
21 to be in compliance with the WCOP."
22 And I have, "The project will not exceed
23 3,000 acre/feet per year of water
24 derived from any local groundwater or
25 surface water source." And that's the

1 end.

2 HEARING OFFICER BOUILLON: Ms. DeCarlo,
3 does that agree with --

4 MS. DE CARLO: That's correct. Yes,
5 that agrees with Staff.

6 HEARING OFFICER BOUILLON: Ms. Garnica,
7 did you participate in -- in that discussion?

8 MS. GARNICA: What do you mean,
9 presently, right now?

10 HEARING OFFICER BOUILLON: Yes. Were
11 you in the room when they were talking about that?

12 MS. GARNICA: No. Oh, you mean over
13 here, in this room?

14 HEARING OFFICER BOUILLON: Yes.

15 MS. GARNICA: Yes, yes, yes. Yes, we
16 where we went. Yes.

17 HEARING OFFICER BOUILLON: All right.
18 That's all -- that's all I wanted to know.

19 MS. GARNICA: Okay.

20 HEARING OFFICER BOUILLON: All right.
21 It's my understanding that as amended, the
22 Applicant has -- is in agreement with that
23 becoming a condition?

24 MR. GALATI: Yes, we're in agreement
25 with Soil and Water 12, as amended, as reflected

1 by Exhibit 51.

2 HEARING OFFICER BOUILLON: All right.

3 You may continue.

4 MR. GALATI: Okay. Since the water will
5 be joint, as well, I'd like to now have Marc
6 Sydnor identify himself, his work address, and
7 current employment, for the record.

8 MR. SYDNOR: My name is Marc Sydnor. My
9 address is 5231 South Quebec Street, Greenwood
10 Village, Colorado, 80111. And my employment is
11 with Greystone.

12 MR. GALATI: Could you please briefly
13 summarize your qualifications for the Committee?

14 MR. SYDNOR: I have a BS in Geology and
15 over 12 years' experience in the analysis of
16 aquifers and groundwater modeling.

17 MR. GALATI: And have you prepared and
18 previously submitted written testimony in this AFC
19 proceeding?

20 MR. SYDNOR: Yes.

21 MR. GALATI: At this point I'd like to
22 mark the Supplemental Testimony of Mark Sydnor as
23 Exhibit 52. It was docketed on November 22nd.

24 HEARING OFFICER BOUILLON: I do not have
25 that, Counsel. Thank you.

1 If I might inquire, Ms. Garnica, did you
2 receive a copy of this declaration and testimony?

3 MS. GARNICA: I received -- Saturday, I
4 received -- I received all this -- this testimony
5 here, and -- which I am trying to see if I can
6 keep up.

7 HEARING OFFICER BOUILLON: Take a look
8 at mine and see if you -- if you received this
9 one.

10 (Pause.)

11 MS. GARNICA: I don't have this -- I
12 don't have this copy.

13 HEARING OFFICER BOUILLON: You do not?

14 MS. GARNICA: No, I do not -- I do not
15 have it in the packet that was -- that I received
16 Saturday.

17 HEARING OFFICER BOUILLON: Okay.

18 MR. GALATI: If I could have a moment, I
19 will make a copy of that.

20 What I'll do while that is -- what I'll
21 do while that is being copied is --

22 HEARING OFFICER BOUILLON: As long as --
23 will you make another copy, please? Make two, so
24 that the Chairman can have one, please.

25 MR. GALATI: I'll make five.

1 HEARING OFFICER BOUILLON: All right. I
2 note for the record that we are going to provide a
3 copy to the Intervenor at this time, and also make
4 another copy for the Committee. I note that
5 attached to the back of this testimony is a proof
6 of service which indicates that it was mailed --
7 not to the Intervenor, that the Intervenor's name
8 does not appear on the proof of service list.

9 MR. GALATI: I don't know what to say to
10 that, other than we'll gladly give her an
11 opportunity to take a look and review. We did
12 have the subject that the workshop involved,
13 proposed Soil and Water 7.

14 HEARING OFFICER BOUILLON: What I'm
15 going to do with regard to Mr. Sydnor's testimony,
16 I think, is we will proceed at this time, but we
17 will not excuse Mr. Sydnor. And if Ms. Garnica
18 has an opportunity over the dinner break to review
19 this and can formulate her questions for him, if
20 any, she can ask them then. If she needs more
21 time, he will come back tomorrow, because she was
22 not served.

23 MR. GALATI: Okay. If we could go
24 forward here with Mr. Harvey summarizing his
25 testimony, then we'll come back to Mr. Sydnor when

1 copies have been made.

2 DR. HARVEY: Thank you. Let me go
3 through for the Commission's benefit, Commissioner
4 Laurie, particularly, had asked for a review of
5 the water resources analysis that we conducted at
6 the beginning of the project, as part of our
7 testimony today. And I did prepare to make a
8 brief presentation.

9 We started in our -- in our search for
10 sites throughout southern California looking for
11 sites that had a combination of resources,
12 transmission, natural gas, and water being the
13 three most primary among those. Permitting
14 feasibility, political acceptability, a number of
15 other criteria, as well. We also looked for sites
16 that had low environmental sensitivity for
17 Biological issues, Cultural Resources issues, Land
18 Use compatibility, those kinds of criteria that we
19 use as a list.

20 The Water Resources was very high on
21 that list, and when we first came to Blythe we did
22 consult with the city, and the city advised us to
23 consult with the Palo Verde Irrigation District.
24 We did include them very early on in our
25 consultation.

1 We looked at possible use of surface
2 water, the Colorado River being the only source of
3 surface water. We looked at the possibility of
4 use of the city's treated wastewater, and whether
5 or not there was sufficient volume of that. We
6 looked at using drain water from Palo Verde
7 Irrigation District. We looked at a number of
8 sources, and including groundwater, and determined
9 that groundwater was the preferable source for
10 both volume for its lower quality relative to some
11 of the other sources, and the volume of
12 availability, and the -- we understood that there
13 were political issues surrounding surface water
14 use of the Colorado River that made that
15 particularly difficult.

16 So we did -- we did select the use of
17 groundwater from wells on site as a means. It was
18 readily controllable by the project, and that
19 offered, we thought, the fewest potential
20 environmental issues.

21 We did review the selection of
22 groundwater in view of the State Water Resources
23 Control -- Control Board Policy 75-58, which I
24 know is used as a standard of review by the
25 California Energy Commission. It's a policy that

1 applies where a project needs to obtain rights to
2 water. This project does not need to do that in
3 this case. It also pertains to the use of fresh
4 waters for cooling of power plants at inland
5 locations. And fresh water defined as waters that
6 are less than 1,000 parts per million total
7 dissolved solids. In this case we had waters in
8 all tests that indicated were greater than 1,000
9 TDS levels.

10 Our regional modeling of the aquifer
11 indicated that there was plentiful water, and that
12 we -- we could draw from that aquifer without
13 having impacts on the regional system.

14 We then consulted with Palo Verde
15 Irrigation District again about use of wells on
16 the Mesa to supply the project. They indicated to
17 us that there was no groundwater regulation; that
18 the well users on the Mesa, of which there are
19 many, including the city, are not regulated by the
20 Palo Verde Irrigation District or by any other
21 entity; that they are subject only to State of
22 California groundwater law, which says basically
23 that a property owner may sink a well on his
24 property and -- and pump from that well to serve
25 his purposes.

1 PVID interpreted -- I'm going to get
2 into some of the details here because it gets a
3 little bit complicated. This is -- let me say by
4 way of introduction, too, that this is a very
5 complicated water setting. It is a very unique
6 water setting. This is -- this is not like other
7 places in California, for -- for the setting we
8 have with the Colorado River and with the agencies
9 involved.

10 PVID interprets groundwater at the Mesa
11 as distinct from groundwater beneath the valley on
12 the basis of water quality differences. Water
13 beneath the Mesa does test out at greater than a
14 thousand parts per million TDS. Water beneath the
15 valley is between 600 and 800 parts per million
16 TDS, depending on how close the wells are to the
17 river. And on that basis, PVID treats them as
18 separate water sources whether they are or not,
19 and I'm not going to get into the -- the issue of
20 that. But that is what they claim.

21 They also advised us, however. They
22 told us we could go up on the Mesa, we could drill
23 wells, we could pump water, it was none of their
24 business, and none of anyone else's business, and
25 there are no wells regulated by anyone on the

1 Mesa. They did advise, however, that the Bureau
2 of Reclamation, who is the federal water master
3 for control of surface water in the Colorado
4 River, under Supreme Court appointment, that the
5 Bureau of Reclamation was developing a policy that
6 may in the future apply to groundwater users in
7 this region and along the entirety of the Colorado
8 River, and that we should consult with the Bureau
9 of Reclamation about that policy.

10 We did consult with the Bureau of
11 Reclamation, and they did explain to us that they
12 have a model, referred to as the Accounting
13 Surface Model, which defines groundwaters as being
14 linked directly to surface waters of the Colorado
15 River if they are below a certain level. All
16 waters in the Blythe area, all groundwaters in the
17 Blythe area, are below that level that they refer
18 to as their counting surface in this hydrologic
19 model.

20 And they -- the Bureau of Reclamation
21 also advised us that they had been involved in
22 policy development relative to this accounting
23 surface for the past decade, and that they
24 expected to have a firm policy. They have no
25 policy in place right now relative to the

1 accounting surface, but they do expect to have
2 that policy firmly in place within about two more
3 years. That's the same thing they've indicated in
4 letters that they have provided to the Commission
5 as -- as their input.

6 They suggested, then, that if this
7 policy was developed as they currently envision,
8 that groundwater extraction by our project, and by
9 all well users on the Mesa and up and down the
10 Colorado River corridor, would be counted as
11 Colorado River surface water. Groundwater
12 extraction would be counted as surface water use.
13 And therefore, our project water would need to be
14 accounted for as part of the water rights
15 entitlement that is held by the Palo Verde
16 Irrigation District.

17 There is no such policy now. It's
18 important to understand, there is no such policy
19 now and no other wells in this area are governed
20 this way. But because we saw that there was a
21 potential for our project to be subject to new
22 policy in the future, we determined that it was
23 prudent policy for us to -- to develop a program
24 that made sure that we would comply with that
25 future policy if it was put into place.

1 So that gives you an idea of how -- of
2 how odd of a situation it is here. We're not
3 trying to comply with the current LORS in a strict
4 interpretation. We are ensuring against PVID's
5 entitlement being accounted adversely in the
6 future, subject to this new policy being
7 developed.

8 We then developed a Water Conservation
9 Offset Program, referred to as the WCOP, which was
10 developed in close coordination with the Bureau of
11 Reclamation and the Palo Verde Irrigation
12 District. We originally had proposed a water
13 transfer. The Bureau advised us this was not a
14 water transfer. This was strictly within the
15 boundaries of the Palo Verde Irrigation District.
16 It was an accounting offset and not movement of
17 water between two entities in any way.

18 And so for that reason they -- they
19 instructed us that this was to be entitled an
20 offset and not a transfer program.

21 We worked out the details of the -- of
22 the offset plan with the Bureau of Reclamation,
23 and had their acceptance of the program to the
24 California Energy Commission in their letter of
25 August 11. Palo Verde Irrigation District

1 provided their letter on August 15, 2000. And let
2 me go through some of the standards for that
3 offset program.

4 For water accounting and for selection
5 of the lands that will qualify, they had to be
6 lands within the Palo Verde Irrigation District.
7 They had to be subject to the surface water
8 entitlement that Palo Verde Irrigation District
9 has. The offset volume was dictated to us by the
10 Palo Verde Irrigation District and agreed by the
11 Bureau of Reclamation as 4.6 acre/feet per acre,
12 was the amount of water to be used. Palo Verde
13 Irrigation District considered that to be a
14 conservative volume of water and the Bureau agreed
15 that it was an appropriate amount.

16 The -- if we were going to involve lands
17 on the Mesa, we would retire those lands from
18 agricultural production, and that would be the way
19 we would count for offsetting against that
20 entitlement. If lands on the valley floor were to
21 be retired -- or were to be utilized, we could
22 either retire them or the district preferred that
23 we not retire just any lands on the valley floor,
24 and for probably most lands on the valley floor
25 they would've wanted us to do a rotational valley

1 scheme where we would have twice as many acres as
2 we needed and at any given time only half of that
3 land would be out of production, the other half
4 being in production.

5 The other requirement imposed by the
6 Bureau is the lands had to be previously
7 irrigated, not just any lands up on the Mesa, they
8 had to be previously irrigated lands. There was
9 no specificity about when or -- or how long.

10 And then pursuant to California Energy
11 Commission Staff issues, we also added provisions
12 that there should be no change in a Williamson Act
13 contract, although I know in other cases there had
14 been allowed changes in Williamson Act contracts
15 without considering those adverse impacts. That
16 was an issue that was raised here. We avoided
17 that issue.

18 And there should be no actively
19 irrigated lands retired, so that we would not have
20 an impact on the farm base of this community
21 today, was another issue raised by Land Use -- in
22 the Land Use analysis.

23 So in consultation with Palo Verde
24 Irrigation District, we -- we, after going through
25 and getting approval of the Water Conservation

1 Offset Program, we asked for their input about the
2 selection of lands that should properly qualify.
3 And they indicated to us on an aerial photo in
4 their board room, lands around the airport that
5 had been previously irrigated, they were on the
6 Mesa, they were in Palo Verde Irrigation District.
7 They met all of the criteria for our program, and
8 they were subject to control by the city. They
9 also had no Williamson Act contract.

10 Now the Blythe Energy Project has
11 developed the Long Term Irrigation Rights
12 Agreement with the City of Blythe. It provides
13 for retirement of 652 acres. That is at 4.6
14 acre/feet per acre, times 60 -- 652 acres, that is
15 3,000 acre/feet, the maximum amount of water that
16 the project could use.

17 And so for the life of the project,
18 those lands are retired from irrigation, and in
19 compliance with direction from CEC Staff regarding
20 Land Use issues again, we also have a stipulation
21 in that agreement that we will prohibit any
22 subsequent water intense land use on that land
23 that utilizes Mesa groundwater. That's a
24 provision that the city has -- the city, of
25 course, as the -- as the entity controlling those

1 lands and as the local land use authority, has
2 clear jurisdiction to enforce.

3 So in summary, the Bureau and the Palo
4 Verde Irrigation District have agreed that our use
5 of water and the use of this Water Conservation
6 Offset Program will preclude us from having a
7 regional or local water use impact. The project
8 is not subject to the State Water Resources
9 Control Board Policy 75-58, because we don't need
10 to obtain water rights. But at any rate, the
11 project goals are satisfied, the policy goals are
12 satisfied because we're not utilizing the fresh
13 waters; we're utilizing waters that are greater
14 than 1,000 TDS.

15 And our accounting offset program does
16 avoid any impacts to PVID regarding their future
17 -- regarding their entitlement should the Bureau
18 implement its proposed future policy regarding the
19 accounting surface.

20 And the last thing I want to say is that
21 we have worked for over two years very closely
22 with the Bureau and PVID. This has been a very
23 responsible Applicant. We have not tried to -- to
24 hide any of our cards. We have not tried to get
25 away with anything here in the valley. We have

1 worked very directly with the city, with Palo
2 Verde Irrigation District, and with the Bureau of
3 Reclamation for two long years in getting to
4 finally having this Water Conservation Offset
5 Program approval from both of those agencies and
6 the -- and the Long Term Rights Agreement with the
7 -- with the city to put that Water Conservation
8 Offset Program into place.

9 Thank you.

10 MR. GALATI: Dr. Harvey, just a couple
11 of follow-up questions.

12 The Long Term Irrigation Rights
13 Agreement, is that land currently in production
14 now?

15 DR. HARVEY: No, it is not.

16 MR. GALATI: And so that agreement does
17 not affect current agricultural labor, does it?

18 DR. HARVEY: That's correct, it does
19 not.

20 MR. GALATI: With respect to the -- your
21 previously filed testimony, you reviewed the Final
22 Staff Assessment?

23 DR. HARVEY: Yes, I did.

24 MR. GALATI: And you reviewed the
25 Supplemental Staff -- excuse me, Supplemental

1 Testimony of Rich Sapudar?

2 DR. HARVEY: Yes, I did.

3 MR. GALATI: And based on your review
4 and the agreement with Exhibit 51, any objections
5 raised in your prior testimony, have those been --
6 satisfied your concern?

7 DR. HARVEY: I -- I believe that the --
8 the key issue relative to water supply and the
9 Water Conservation Offset Program is addressed now
10 in the agreement reached with Staff this afternoon
11 for amended language on Soil and Water Condition
12 12.

13 MR. GALATI: Okay. Thank you.

14 I think we now have copies of
15 Supplemental Testimony of Mark Sydnor, which was
16 marked as 52. I'd like to go back to Mark Sydnor
17 at this time.

18 (Inaudible asides.)

19 MR. GALATI: Did you get additional
20 copies? Did you get enough copies?

21 HEARING OFFICER BOUILLON: Yeah, we're
22 fine.

23 MR. GALATI: Okay. Mr. Sydnor, did you
24 prepare Exhibit 52?

25 MR. SYDNOR: Yes.

1 MR. GALATI: And can you affirm that
2 testimony under oath today?

3 MR. SYDNOR: Yes.

4 MR. GALATI: Does that testimony reflect
5 your best professional judgment?

6 MR. SYDNOR: Yes.

7 MR. GALATI: Do you have any corrections
8 of modifications to that testimony?

9 MR. SYDNOR: No.

10 MR. GALATI: Would you briefly summarize
11 your testimony.

12 MR. SYDNOR: Yes. The assessment that
13 we did regarding the well interference was based
14 upon a USGS report which was the Geohydrology of
15 the Parker-Blythe-Cibola area, a professional
16 paper printed in 1973. And this document presents
17 the results of several pumping tests in the valley
18 and in the Mesa, and they detail hydraulic
19 conductivity and transmissivity of the aquifers in
20 these areas.

21 And during the initial assessment I
22 made, I utilized the conductivity that was
23 calculated by this analysis done by the USGS, by
24 dividing the conductivity into the length of the
25 perforated casing in the well, which is unusual.

1 It's usually divided by the total thickness of the
2 aquifer. And in that case, this was applied and
3 resulted in a computational error that
4 underestimated the prediction of the draw-down in
5 the area.

6 So I agree with the CEC Staff Assessment
7 with regard to the methodology of the prediction
8 of the draw-down. However, I think the range of
9 the parameters that were selected by the -- by the
10 Staff does not provide a representative comparison
11 to actual site conditions at the Blythe Energy
12 Project, which is located about 1.2 miles from the
13 edge of the Mesa.

14 The range of transmissivities that the
15 CEC utilized was 64,000/290,000 gallons per day
16 per foot, for two wells located on the Mesa. And
17 these two wells, one is located approximately 6.9
18 miles north of the proposed site, and that's the
19 one with the lower value. The one with the higher
20 value is approximately 2.5 miles northeast of the
21 proposed site. And this represents only two of
22 six aquifer tests conducted on the Mesa.

23 There's a third well that was located
24 1.1 mile south of the site and was not utilized by
25 the CEC Staff in their assessment of draw-down.

1 The conformance of the well test, the theoretical
2 values rated by the USGS was good, and the
3 transmissivity value determined was rated as fair.
4 The well had a reported transmissivity of 420,000
5 gallons per day per foot.

6 These --

7 MR. GALATI: Excuse me, Mr. Sydnor. Did
8 you -- did you agree with the Staff's use of
9 hydraulic conductivity and transmissivity values
10 in their analysis?

11 MR. SYDNOR: No. I thought that the
12 values -- the two values that were selected
13 represented the two lowest values that were found
14 in the six well tests on the Mesa.

15 MR. GALATI: Okay. So did you submit
16 additional remodeling?

17 MR. SYDNOR: Yes.

18 MR. GALATI: And can you briefly tell us
19 what the results of that remodeling was?

20 MR. SYDNOR: The results of that
21 indicated that at the edge of the Mesa, if we
22 utilize the two tests that are the closest to the
23 site, which are 1.25 miles and 1.15 miles from the
24 edge of the Mesa and closest to the site,
25 indicated that the draw-down would only be

1 approximately 4.95 feet at a distance of 3,465
2 feet, and that's assuming 1800 gallons per minute
3 pumping rate.

4 And that was for the same methodology
5 that the CEC used, and the same parameters. The
6 only parameter that we changed was the
7 transmissivity based upon the two wells which are
8 closer to the site.

9 MR. GALATI: Okay. And, Mr. Sydnor, you
10 believe that there's a potential, using this data
11 that exists out there, that there may be some
12 draw-down that may impact wells in the area?

13 MR. SYDNOR: Yes.

14 MR. GALATI: Do you believe that you
15 should base any conclusions or mitigation on that
16 analysis that was previously done using that
17 existing data?

18 MR. SYDNOR: No. I --

19 MR. GALATI: Do you agree with the Staff
20 Assessment conditions that require site specific
21 testing to further define those values?

22 MR. SYDNOR: Yes.

23 MR. GALATI: Do you agree with all of
24 the conditions proposed by Staff?

25 MR. SYDNOR: In the remedy -- in the

1 remedy?

2 MR. GALATI: Do you agree with Soil and
3 Water 7?

4 MR. SYDNOR: No.

5 MR. GALATI: And why not?

6 MR. SYDNOR: The reason I disagree with
7 it is because in the language they propose that
8 mitigation take place based upon projected
9 impacts, and not upon actual impacts that may
10 occur as a result of the pumping. They set a
11 limit of five feet of well draw-down as a
12 threshold requiring mitigation without taking into
13 account any other factors that may allow an
14 existing well to function without experiencing any
15 adverse impacts from the five feet of draw-down.

16 MR. GALATI: Do you agree that if a well
17 suffers adverse impacts from pumping at the Blythe
18 Project, that the Blythe Project ought to
19 compensate or -- compensate the owner or repair
20 the well?

21 MR. SYDNOR: Absolutely.

22 MR. GALATI: And did you propose a
23 program to do that?

24 MR. SYDNOR: Yes, I did.

25 MR. GALATI: Could you briefly describe

1 that program?

2 MR. SYDNOR: Well, briefly, what I've
3 proposed is that we would identify, as a result of
4 the site specific test, first of all the
5 transmissivity at the site, utilize that
6 transmissivity to determine what wells may be
7 impacted up to five feet of draw-down, identify
8 those wells, and attempt to monitor those wells to
9 see if they are adversely impacted during the
10 project.

11 We set out a schedule, as well, of how
12 these are to be observed, and to determine whether
13 there are adverse effects.

14 MR. GALATI: Is it fair to characterize
15 the Final Staff Assessment's Soil -- Soil and
16 Water 7 Condition as a condition that requires the
17 Applicant to mitigate before a well is impacted?

18 I'm sorry. No one on the planet could
19 understand that.

20 (Laughter.)

21 MR. GALATI: And I will do that again.
22 Hang on a minute.

23 HEARING OFFICER BOUILLON: I think your
24 attempt to lead the witness went far astray.

25 (Laughter.)

1 MR. GALATI: Thank you.

2 With respect to Soil and Water 7,
3 proposed by Staff, does the trigger mechanism for
4 mitigation kick in after the well experiences an
5 impact, or before?

6 MR. SYDNOR: It appears, from our view,
7 that they wish to mitigate based upon predictions
8 of draw-down. That there would be a potential for
9 someone to mitigate based upon the predictions of
10 draw-down and not upon actual draw-down.

11 MR. GALATI: And how is what you're
12 proposing different?

13 MR. SYDNOR: That would be based on any
14 actual impacts that occur to a well or well owner
15 as a result of this project.

16 MR. GALATI: And you propose monitoring
17 to determine that?

18 MR. SYDNOR: Yes.

19 MR. GALATI: Could you briefly describe
20 the monitoring program?

21 MR. SYDNOR: Yes. As I said, I believe
22 we should monitor the wells that identify -- that
23 are identified as potentially being drawn down
24 over five feet through the life of the project,
25 and attempt to monitor those wells and determine

1 if they are impacted during the project. If we
2 see that the well is approaching a level where it
3 will adversely affect the owner, we would then
4 mitigate by either lowering the pump in the well
5 or drilling another well to -- to ensure that the
6 water supply is continuous for the owner.

7 MR. GALATI: Do you believe that this
8 will adequately protect water well owners in the
9 area?

10 MR. SYDNOR: Yes.

11 MR. GALATI: And do you think that the
12 monitoring program you have proposed is
13 reasonable?

14 MR. SYDNOR: Yes.

15 MR. GALATI: At this time I'd like to
16 move in several exhibits into evidence.

17 HEARING OFFICER BOUILLON: Let me just
18 ask a question of this witness before you do.

19 When I announced that I did not have a
20 copy of Exhibit 52, I was provided one by Mr.
21 Grattan. Apparently it was his working copy, and
22 it has some handwriting on page 4.

23 Mr. Sydnor, if I can ask you, does your
24 supplemental testimony have any handwriting on
25 page 4?

1 MR. SYDNOR: No, it does not.

2 HEARING OFFICER BOUILLON: I've got --
3 I've got another one now. And that's why I
4 noticed the difference.

5 MR. SYDNOR: Okay.

6 HEARING OFFICER BOUILLON: All right.
7 Mr. Galati.

8 MR. GALATI: The exhibits I'd like to
9 move into evidence at this time start with the
10 Land Use exhibits.

11 HEARING OFFICER BOUILLON: Are you
12 talking about the exhibits sponsored by this
13 witness -- these witnesses?

14 MR. GALATI: This witness -- these
15 witnesses, as a panel --

16 HEARING OFFICER BOUILLON: I'd like --
17 prefer to do that after any cross examination.

18 MR. GALATI: Okay. Sure. Then this
19 panel is turned over for cross examination.

20 HEARING OFFICER BOUILLON: Staff, I'm
21 going to ask you each time if you have cross
22 examination, because I know you've stipulated many
23 times that you do not. But I think this may have
24 been an area in which you do have some. Is that
25 correct?

1 MS. DE CARLO: Yes. If we could have
2 just one moment?

3 HEARING OFFICER BOUILLON: Well, let me
4 ask -- Ms. Garnica, are you ready to ask questions
5 of this witness?

6 MS. GARNICA: Well, I'm reading -- made
7 several statements -- I didn't know that at this
8 point I could do that?

9 HEARING OFFICER BOUILLON: Excuse me?

10 MS. GARNICA: I could do that at this
11 point?

12 HEARING OFFICER BOUILLON: Yes, please.

13 MS. GARNICA: Because I thought that he
14 was --

15 HEARING OFFICER BOUILLON: If you want
16 to ask any of these three witnesses any questions
17 about the subject of their testimony.

18 MS. GARNICA: Yes. He -- he had
19 mentioned --

20 HEARING OFFICER BOUILLON: Ms. Garnica,
21 if I might suggest, if you sat on the other side
22 of the table you would be facing them, and then
23 speaking into the microphone at the same time.

24 MS. GARNICA: Okay.

25 I have a cold, so you'll have to bear

1 with me.

2 Yes. He had -- he had made a statement
3 about -- about the draw-down, and that the people
4 would be compensated so that they can have the
5 same amount of water ongoing all the time.

6 How would you compensate -- how would --
7 when you say compensate, in what form do you mean
8 the word compensate? Exactly what is it, your
9 term of compensation?

10 MR. SYDNOR: Well, basically we would
11 try to ensure that the water that you -- you still
12 have the same water and the same ability to have
13 water that you had before. We want to monitor the
14 situation, we want to observe the situation and
15 make sure that your water supply is ensured. So
16 if the water was to drop below a level in your
17 well where your well could be used, we would
18 provide another well.

19 MS. GARNICA: Like -- like how soon is
20 that? How soon after that effect would that be?

21 MR. SYDNOR: We were trying to do that
22 before the effect. What we were trying to do is
23 we've proposed a monitoring plan where we would be
24 watching your well, and when it gets close to a
25 level where it might become possible for that to

1 happen, that's when we would go ahead and deepen
2 the well prior to it happening.

3 MS. GARNICA: And how -- how soon -- I
4 mean, how long of a time span are you talking
5 about, when you say you would deepen into the
6 well? Is that done like instantly, or like is
7 that hours, is that days, or -- or is that -- you
8 need a whole work crew to go in to do all that?

9 MR. SYDNOR: Well, it depends on your
10 well. If your well's too shallow, we would need a
11 work crew to drill a new well. If your pump just
12 needs to be lowered, we need a pump crew just to
13 lower the pump. And that could take place
14 relatively quickly. I can't give you an exact
15 time because you know how drillers are, you have
16 to call them and schedule them, and they have to
17 be available to do that.

18 MS. GARNICA: So meanwhile, the family
19 would be without water while you figure out --

20 MR. SYDNOR: No. We're trying to --
21 we're trying -- we've developed a plan where we
22 want to be able to, and we're going to be able to
23 monitor a well, and when it gets close to any sort
24 of level where we think it may go dry, we're going
25 to go ahead and take care of the situation prior

1 to it going dry. We don't want your family to be
2 without water. That's just not a consideration of
3 this plan. The plan is developed to ensure that
4 you keep water.

5 MS. GARNICA: Then when you do the
6 monitoring, the monitoring is done as -- you said
7 it's by well. Would that encompass the whole area
8 of Mesa Verde? You know, they have like about 800
9 people, families living up there.

10 MR. SYDNOR: It would cover the area
11 that we -- once we do our site specific tests, it
12 would cover the area that we show may be impacted
13 by our operation. That we predict may be impacted
14 by our operation over the entire life of the
15 operation. That's what area we would cover. It
16 could be from a mile to two miles from the site.

17 MS. GARNICA: But it -- if it's done
18 within -- within the two miles -- you said within
19 two miles?

20 MR. SYDNOR: No. We were -- we are
21 going to do site specific tests to see how far our
22 influence may reach out from our site.

23 MS. GARNICA: Yes. That's more than two
24 miles.

25 MR. SYDNOR: At this time, my

1 calculations show that, in average, that we get
2 about five feet at about 3,400 and some odd feet,
3 somewhere in there. So we would have to do site
4 specific tests to make sure that we can determine
5 who might be impacted.

6 MS. GARNICA: And you're -- all that is
7 going to be done prior to the initial
8 establishment of the plant?

9 MR. SYDNOR: Yes.

10 MS. GARNICA: Or proposed plant.

11 MR. SYDNOR: Yes.

12 MS. GARNICA: It's going to be -- it's
13 more than two miles --

14 MR. SYDNOR: No. That's not what our
15 assessments show to date, that it's going to be
16 more than two miles.

17 MS. GARNICA: You -- I guess it was you,
18 you mentioned about the BLM and the PVID
19 agreement, or --

20 DR. HARVEY: That was me.

21 MR. GALATI: That would be Jeff.

22 MS. GARNICA: Oh, okay. I'm sorry. Is
23 that contract submitted already? Was that --
24 because I haven't -- I haven't read it yet. I
25 haven't read that contract yet, or that agreement

1 with the PVID and the BLM yet. That the BEP has.

2 DR. HARVEY: I'm Jeff Harvey again, with
3 Greystone.

4 The Water Conservation Offset Program
5 was developed with the Bureau of Reclamation and
6 the Palo Verde Irrigation District. It was
7 submitted as part of the materials that were
8 docketed, and should've been sent out to the
9 service list that you are on as an attachment to a
10 letter from the U.S. Bureau of Reclamation to
11 California Energy Commission, Siting Manager Bob
12 Therkelsen, on August 11, 2000.

13 MS. GARNICA: Oh, okay. That was an
14 actual contract? There was --

15 DR. HARVEY: It was the Water
16 Conservation Offset Program. And their letter
17 agreeing that that program did satisfy their
18 concerns for accounting for -- for that water use.

19 MS. GARNICA: Well --

20 DR. HARVEY: And then more recently, a
21 week ago Friday, so just by last Wednesday or so
22 you should've also received a docketed copy of the
23 Long Term Irrigation Rights Agreement between the
24 Blythe Energy Project and the City of Blythe.

25 MS. GARNICA: Well, I -- I only have a

1 letter of -- I think it was a letter of -- I think
2 it was -- I thought it was a letter of support. I
3 didn't -- I didn't -- okay. Well, it's in -- I
4 didn't know that, why -- you know, I thought that
5 a contract meant that when two people make
6 agreements, and I didn't know that a letter of
7 support was a letter of agreement, or a contract.
8 I didn't know that that was --

9 DR. HARVEY: Yeah, I don't think we're
10 talking about the same thing. There was no -- it
11 was not a support letter. It was -- oh, there was
12 a letter --

13 MS. GARNICA: I couldn't --

14 DR. HARVEY: -- from the county --

15 MS. GARNICA: -- I could've --

16 DR. HARVEY: -- that supported the
17 agreement. That was a letter from the county.
18 And then the agreement was a separate -- it is a
19 contract between Blythe Energy Project and the
20 City of Blythe, and it is separate from the letter
21 that you're referring to.

22 MS. GARNICA: Okay.

23 DR. HARVEY: It was at the same time,
24 they were docketed together.

25 MS. GARNICA: So -- so I also have a

1 letter -- I mean, I also have the contract with
2 the PVID?

3 DR. HARVEY: The contract is with the
4 City of Blythe, for the Long Term Irrigation
5 Rights Agreement.

6 HEARING OFFICER BOUILLON: I'd like to
7 ask Counsel, why don't you show her the documents
8 your witness is speaking of?

9 MS. GARNICA: Okay. I have -- yeah, I
10 have the -- well, this is -- this is just -- proof
11 of service. But it says -- okay. Well, this says
12 -- well, I could've -- I could've misinterpreted,
13 because this one just says offset program for the
14 Blythe Energy Project by and among the City of
15 Blythe and Blythe Energy. It doesn't say anything
16 from the -- because I know that the Palo Verde
17 Irrigation District, I know they have their own
18 board and all that kind of stuff, too, you know.
19 I thought that --

20 DR. HARVEY: They have a letter --

21 MS. GARNICA: -- I was looking forward
22 to --

23 DR. HARVEY: I see. What you have
24 before you there in your hand is the Long Term
25 Irrigation Rights Agreement that implements the

1 Water Conservation Offset Program, as it was
2 accepted by the Bureau of Reclamation and the Palo
3 Verde Irrigation District. The actual Water
4 Conservation Offset Program is attached to the
5 Bureau's August 11 letter, and referred to in Palo
6 Verde Irrigation District's August 15th letter,
7 also part of the docketed record here. Those are
8 not attached to the Irrigation Rights Agreement.

9 So there are three separate documents.
10 One is a letter from Palo Verde Irrigation
11 District to Blythe Energy Project, regarding the
12 Water Conservation Offset Program. One is a
13 letter from the Bureau of Reclamation to the
14 California Energy Commission, regarding the Water
15 Conservation Offset Program and including as an
16 attachment that program.

17 MS. GARNICA: Okay. I think I'm missing
18 --

19 DR. HARVEY: And then the -- and then
20 the third is that implementation of the Water
21 Conservation Offset Program as it's described in
22 the first page. The title of that, though, is
23 Long Term Irrigation Rights Agreement between the
24 Blythe Energy Project and the City of Blythe. It
25 is a confusing amount of paper.

1 MS. GARNICA: This is -- no, this one
2 goes to this one. Okay. Then I -- I'm missing --
3 I don't think I have the -- the one with the Palo
4 Verde Irrigation District.

5 MR. GALATI: What was the date -- what
6 was the date of that?

7 DR. HARVEY: August 15th --

8 MR. GALATI: August 15th --

9 DR. HARVEY: -- 2000.

10 MR. GALATI: -- 2000.

11 DR. HARVEY: That was four days after
12 the Bureau's letter.

13 MR. GALATI: That was prior to the
14 intervention?

15 DR. HARVEY: It may have been prior to
16 the formal intervention, so it may have been
17 before you were on the service list.

18 MS. GARNICA: So what happens then?

19 HEARING OFFICER BOUILLON: When did you
20 intervene, Ms. Garnica, do you know?

21 MS. GARNICA: I beg your pardon?

22 HEARING OFFICER BOUILLON: When did you
23 intervene in this proceeding?

24 MS. GARNICA: It was on -- it was the
25 day before the deadline, 30 minutes before the

1 deadline.

2 (Laughter.)

3 PRESIDING MEMBER KEESE: Late September
4 sometime. I think it was late September.

5 HEARING OFFICER BOUILLON: That was in
6 September?

7 PRESIDING MEMBER KEESE: I think it was
8 late September.

9 HEARING OFFICER BOUILLON: Well, there
10 was no requirement that the Applicant serve you
11 with copies of everything it had docketed prior to
12 that time. He is having exhibits marked to put
13 into evidence at this time, and it's my
14 understanding that the Water Conservation Offset
15 Plan is one of those documents.

16 He is going to be required to furnish
17 you with a copy of that exhibit, since you were
18 not served one earlier, but I'm not going to make
19 him do it this instant.

20 MS. GARNICA: Oh.

21 HEARING OFFICER BOUILLON: But you will
22 get an opportunity to -- to review it, and I'll
23 let you ask questions later. But I think Mr.
24 Harvey's going to be around for a while, in any
25 event, is he not?

1 DR. HARVEY: I am.

2 HEARING OFFICER BOUILLON: So you'll get
3 an opportunity -- we'll get you one as quick as we
4 can, and you'll have an opportunity to review it.

5 Incidentally, I wanted to add, since I
6 put you on the spot a little bit by asking you to
7 go first because the Staff wasn't prepared, when
8 they're finished I'm going to give you another
9 opportunity to ask questions anyway.

10 MS. GARNICA: Okay. That'll be fine.

11 HEARING OFFICER BOUILLON: So you let me
12 know when you -- whenever you're ready to stop,
13 and you'll get another opportunity to ask these
14 witnesses questions.

15 MS. GARNICA: Well, I'm -- I don't have
16 any questions right now.

17 MS. DE CARLO: Staff has one question.

18 Mr. Sydnor, with regard to the well
19 monitoring, will the Applicant be differentiating
20 between --

21 HEARING OFFICER BOUILLON: A little
22 closer, please.

23 MS. DE CARLO: I'm sorry.

24 With regard to the well monitoring, will
25 the Applicant be differentiating between project

1 impacts and other sources of impacts, such as
2 recharge and rainfall, to the water level?

3 MR. SYDNOR: Well, recharge and rainfall
4 are not going to be impacts. They're going to
5 actually make the water level go up in the
6 aquifer. There will be some fluctuation, and we
7 would be examining that through our monitoring
8 program by establishing a one year baseline, by
9 establishing monthly monitoring for a year, and
10 then after that, quarterly monitoring to look at
11 seasonal fluctuation. And we can look at those
12 variances as we go through to determine whether
13 someone's actually impacted or not.

14 MS. DE CARLO: Okay. Thank you.

15 (Inaudible asides.)

16 HEARING OFFICER BOUILLON: I'm sorry, no

17 --

18 PRESIDING MEMBER KEESE: We're -- why
19 don't you wait just a moment, and I think we'll
20 handle your case. Mr. O'Brien wanted to ask a
21 question.

22 MR. O'BRIEN: I have a question for the
23 -- for the Applicant, and I believe it was an
24 issue that was addressed by Ms. Zeff.

25 It goes to, I think, Land Use, Condition

1 Number 4, if I'm not mistaken. I believe you
2 indicated there was a disagreement that was still
3 outstanding between the Applicant and Staff, and I
4 was wondering if I could get some clarification on
5 that?

6 My question goes to a statement made by
7 Ms. Zeff, I believe, in regard to Land Use. I
8 believe she indicated that there was still some
9 disagreement on Land Use Condition Number 4
10 between the Staff and the Applicant, and I'd like
11 some clarification on that.

12 DR. HARVEY: If I could respond to that.
13 Jeff Harvey, from Greystone.

14 The only issue here is over the timing
15 for submittal of the site plan. I believe that
16 the present language in the measure -- measure
17 Land Use Number 4 stipulates the site plan needs
18 to be submitted a full 60 days prior to any
19 construction activities. We had requested that
20 that language be modified to say 60 days prior to
21 beginning of foundation work, so that we could at
22 least begin out there with grading and -- and
23 fencing, and so forth.

24 HEARING OFFICER BOUILLON: Excuse me,
25 Mr. Harvey. The testimony I'm reading says 30

1 days before.

2 DR. HARVEY: Thirty days? Is that --
3 could I take just a minute?

4 I'm sorry, I need to clarify that. Our
5 -- the Staff had recommended 60 days prior to any
6 construction, and our request was that that be
7 modified to say 30 days prior to the start of
8 construction of foundations. Our -- our goal
9 there is only not to delay beginning site
10 preparation work for completion of the site plans.
11 We understand we need to have the site plans.
12 We've got a pretty good basis for that site plan
13 now. We need to show setbacks, fence heights, you
14 know, the details that will be part of the
15 equivalent of a use permit.

16 And we're not trying to avoid preparing
17 that, only that we not have the delivery of the
18 final site plan with all that detail impede our --
19 our ability to begin construction, clearing of the
20 site and -- and fencing of the site. We
21 understand that we cannot begin structural, you
22 know, construction of -- of the physical works
23 themselves, beyond grading and -- and fencing and
24 preliminary work.

25 So we were just thinking some leeway on

1 -- on the timing.

2 MR. O'BRIEN: So, let me see if I
3 understand this. You want 30 days prior to the
4 start of construction on what sort of --

5 DR. HARVEY: The foundations for the
6 power island. That's where you begin the real --
7 pouring of concrete, the real permanent structural
8 work. And it would be fine if you were to say
9 permanent structural work, the foundations was the
10 first thing that we thought of, that is a
11 permanent -- as opposed to fencing, as opposed to
12 grading, as opposed to anything that can be --
13 that is not a permanent structure.

14 PRESIDING MEMBER KEESE: Staff have a
15 response to that comment?

16 MS. DE CARLO: Just that as busy as
17 Staff is right now, we do like to have a certain
18 amount of leeway in order to review plans as they
19 come in. I believe in our start of construction,
20 our general definition of that is start of
21 foundation, pouring of foundation.

22 HEARING OFFICER BOUILLON: So with
23 regard to construction and -- the insertion of the
24 word "foundations" you have no objection. Is that
25 correct? But you'd have a difference over the 30

1 and 60.

2 MS. DE CARLO: Well, with the -- the
3 addition of additional language to one
4 verification section, kind of requires the
5 addition of that language to all other
6 verification sections. Because if you add it to
7 one, then people are wondering why it's not in the
8 others, if there's a different definition.

9 In the end, no, we do not object to the
10 addition of foundations, but we would ask that the
11 60 days remain.

12 HEARING OFFICER BOUILLON: And that's
13 based upon the Staff resources.

14 MS. DE CARLO: Yes.

15 PRESIDING MEMBER KEESE: Thank you. Let
16 me try to make clear again. The only parties
17 participating in this hearing -- the audience is
18 not participating, and not going to participate.
19 The only parties participating are the Applicant,
20 the Staff, and the Intervenor, Ms. Garnica.

21 What we're going to do here is we're
22 going to take a five minute break, and you're
23 welcome to discuss with whoever you'd like, what
24 you'd like, and then we will let you ask a
25 question as we resume here.

1 This will be an exceptional case. We're
2 not going to do that again. But we recognize we
3 have a document here that -- that came before your
4 participation, so just at this time we're going to
5 take five minutes. You can have a conversation,
6 and then you're welcome to ask a question.

7 HEARING OFFICER BOUILLON: If I might
8 add to that, at the conclusion of each session
9 that we have, we have a period of public comment
10 where any member of the audience or any member of
11 the public is free to make comments about what
12 they've heard during the evidence. They're not
13 going to participate by asking witnesses questions
14 and getting answers to those questions, but I'm
15 sure if they have questions for either the Staff
16 or the Applicant, that those questions will be
17 taken into consideration by those parties in
18 formulating the rest of their testimony.

19 So they are of concern both to them and
20 to us. So you will get an opportunity to speak,
21 but you will not be able to participate in the
22 question and answer session that we're conducting
23 right now.

24 PRESIDING MEMBER KEESE: That --
25 understand?

1 FROM THE AUDIENCE: Not quite.

2 PRESIDING MEMBER KEESE: Okay. This is
3 a question -- the cross examination takes place
4 right up here. When we're done with that, you
5 will be allowed to make comments. And you can --
6 you can pose a question for somebody; they're not
7 going to answer it, but they'll hear your question
8 if you'd like to pose it.

9 Right. So we're going to be taking a
10 real brief break here, and you can talk to her and
11 she can ask you a question, if you'd like.

12 Okay, five minutes, please.

13 (Off the record.)

14 PRESIDING MEMBER KEESE: Okay, we're
15 back on the record.

16 HEARING OFFICER BOUILLON: Ms. Garnica,
17 do you have any additional questions?

18 MS. GARNICA: Yes. Mr. Galati, is that
19 -- that's correct.

20 MR. GALATI: That's close enough.

21 MS. GARNICA: Okay, I'm sorry. Gave me
22 a copy of the Palo Verde Irrigation District
23 letter, and it's -- it's a one page letter. And
24 it's regarding the proposed Water Conservation
25 Offset Program for the Blythe Energy Project.

1 What I was asking for was an agreement,
2 like a contract type, where it says that you can
3 use 3,000, you know, feet of water, or something
4 that mentions to where you can use it. But what I
5 also needed to ask was in this -- if there is --
6 if anybody knows of any litigation that is against
7 the -- that is presently with the PVID regarding
8 the use of groundwater in Mesa.

9 MR. GALATI: I don't know the answer to
10 that question, and Mr. Harvey is also making
11 copies of another document you requested right
12 now. Maybe he can answer that when he gets back.
13 I don't believe he can.

14 One thing I can update, though --
15 there's Mr. Harvey. One thing I can update is
16 there's no contract between PVID and the Blythe
17 Energy Project. There is a Water Conservation
18 Offset Program which we're trying to get a copy to
19 you right now. It was one that was docketed prior
20 to your being an Intervenor. It was attached to a
21 letter from the U.S. Bureau of Reclamation,
22 approving its use.

23 But there's no contract, and I'll let
24 Mr. Harvey actually testify.

25 HEARING OFFICER BOUILLON: Ms. Garnica,

1 if I might interrupt here.

2 Mr. Harvey, while you were out of the
3 room Ms. Garnica asked a question that I believe
4 sought to find out whether or not you were aware
5 of any pending litigation involving the Palo Verde
6 Irrigation District regarding groundwater use on
7 the Mesa.

8 DR. HARVEY: No, I am not aware of any.

9 HEARING OFFICER BOUILLON: Okay. And
10 are you -- and on your behalf, your Counsel
11 offered the opinion that there was no contract
12 between the Applicant and anyone, the Irrigation
13 District or any other entity, authorizing you to
14 extract 3,000 acre/feet from the groundwater
15 source.

16 DR. HARVEY: That's correct. There is
17 no well user on the Mesa, of which there are many,
18 including the city and including multiple private
19 wells for individual residences and for
20 agricultural operations, all of which operate
21 under California groundwater law, which is that
22 they drill a well and make use of water as they
23 have a need. There is no jurisdiction by the Palo
24 Verde Irrigation District governing groundwater
25 use or wells on the Mesa, and the Palo Verde

1 Irrigation District made it explicit to us in
2 every meeting over two years' time, that they had
3 no intention of asserting jurisdiction over
4 groundwater. It was part of their -- part of
5 their ongoing debate, dialogue with the Bureau of
6 Reclamation about the Bureau of Reclamation's
7 proposed accounting surface policy.

8 Another question that was asked was
9 whether or not there had been a meeting with the
10 Palo Verde Irrigation District. We had several
11 meetings which we were on the formal agenda, their
12 noticed agenda here locally, to discuss with them
13 the development of that plan, to discuss with them
14 our dialogue with the Bureau of Reclamation, and
15 finally to present to them the Water Conservation
16 Offset Program and to get their letter with regard
17 to that program.

18 All of those meetings were meetings
19 where we were on the formal agenda, and those were
20 noticed meetings of the Palo Verde Irrigation
21 District.

22 MS. GARNICA: So that means that in this
23 -- this would be like in the Final Staff
24 Assessment, or in all the -- it does say in there
25 that the PVID has no jurisdiction over any

1 groundwater in --

2 DR. HARVEY: That's correct. It's
3 language that they had us put in footnotes to the
4 -- to the Water Conservation Offset Program as
5 well, that they had no intention of implying,
6 through -- through this program, that they were
7 asserting jurisdiction over our wells or anybody
8 else's wells on the Mesa; that they acknowledged
9 that the Bureau of Reclamation had a potential
10 future policy by which they would account for this
11 project's groundwater use, and perhaps other
12 groundwater users, as a part of Palo Verde
13 Irrigation District's surface water entitlement,
14 and that they acknowledge that we were then
15 voluntarily, and the term voluntary is right in
16 the title again, at their insistence, to ensure
17 that there was no appearance that they were taking
18 jurisdiction over -- over groundwater on the Mesa,
19 that defined the program as voluntary and -- and
20 stated that they had no objection to our
21 implementing the program as a means to avoid any
22 effect to them relative to future entitlement, use
23 of their water entitlement.

24 MS. GARNICA: So PVID did write
25 somewhere where they said they had no jurisdiction

1 over any water?

2 DR. HARVEY: It's in the August 15th
3 letter from the District. It would've been
4 docketed prior to your becoming involved as an
5 Intervenor.

6 MS. GARNICA: No, it's not in this one.

7 DR. HARVEY: Is that dated August 15th?

8 MS. GARNICA: It says August 15th, but
9 I'm trying to look for that sentence where it says
10 PVID has no jurisdiction over --

11 DR. HARVEY: They may not have put it
12 explicitly in their letter. What they put
13 explicitly in their letter was that they had no
14 objection to the program. And in the program --

15 MS. GARNICA: Yeah. Well, that says
16 here, it says -- yeah, Conservation Offset
17 Program.

18 DR. HARVEY: And in the program states
19 that they -- they have no jurisdiction over
20 groundwater. The program itself. If you take a
21 look at the letter from the Bureau on August 11th,
22 and the attached Water Conservation Offset
23 Program, that's where there is clear language. It
24 was part of the language that they wanted to see
25 in that program, that -- that stipulates that they

1 are not asserting jurisdiction over groundwater by
2 virtue of our voluntary implementation of that
3 program.

4 MS. GARNICA: Okay. So that's going to
5 mean that -- let's say in the future, let's say
6 ten years from now or something, there's a whole
7 new -- brand-new board that's at the Palo Verde
8 Irrigation District. And that means that whatever
9 it is that they decide and whatever resolutions
10 they pass, whatever they amend, it can be changed
11 because there is no written contract that says
12 that PVID allocates 3,000 square acres?

13 DR. HARVEY: I'm not sure I understand
14 the whole of your question, but as to what --

15 MS. GARNICA: Will that mean --

16 DR. HARVEY: -- as to what Palo Verde --

17 MS. GARNICA: -- will that mean that --

18 DR. HARVEY: -- Irrigation District
19 might do in the future, I -- I couldn't guess.

20 MS. GARNICA: Because there's nothing --
21 what I'm trying to say is that there is -- I guess
22 I just want to know is if there's anything -- is
23 there any -- there's any hold, is there any --
24 there's a term that you use, but is there anything
25 that -- contracts --

1 DR. HARVEY: There is no binding
2 contract.

3 MS. GARNICA: Thank you.

4 DR. HARVEY: Because they do not assert
5 jurisdiction, and they never have in the history
6 of the District asserted jurisdiction over
7 groundwater. And the present board claims, and
8 has claimed consistently, for two years they've --
9 they've never wavered, that they have no intention
10 of asserting that jurisdiction in the future.

11 If they do --

12 HEARING OFFICER BOUILLON: If I might
13 interject here. I'm --

14 DR. HARVEY: -- if they were to change
15 that policy, that would --

16 HEARING OFFICER BOUILLON: -- I'm
17 somewhat familiar with the water laws in this
18 state, and being a lawyer, I will disclaim any
19 expertise. But I am aware that there is no
20 irrigation district within the State of California
21 which regulates well drilling and groundwater use.
22 The law of groundwater in the State of California
23 is by and large totally unregulated. You do not
24 need a contract with any irrigation district to
25 drill a well on your own property.

1 When it comes into contact with
2 something about you might be taking water from the
3 river, then you have such entities as the Colorado
4 River --

5 DR. HARVEY: In this case the Bureau of
6 Reclamation.

7 HEARING OFFICER BOUILLON: -- governing
8 board, which is the Bureau of Reclamation. If
9 you're affecting other rivers or streams, you may
10 be subject to other jurisdictions. But not the
11 irrigation districts. You can drill a well on
12 your own land. Just like -- my understanding is
13 that there's a somewhat in the vicinity of a lemon
14 grove, they probably have a well. They have no
15 contract for that well with anyone. And they
16 don't need one.

17 MS. GARNICA: Okay. Because actually
18 there was two -- so if there's -- okay. Well, I
19 guess I could ask whatever I don't know, right?

20 I was speaking to a person that is a --
21 a mayordomo, a -- a supervisor or a crew leader,
22 that works up there in the lemon orchards. He
23 says they do -- they use two ways of water. They
24 use the PVID and they use the well. And so if --
25 if they use the PVID, and let's say that there's

1 -- let's say the Blythe Energy Plant has their
2 contract and they decide -- I mean, they have
3 their -- their program and their water, and they
4 decide that they are going to use more water from
5 the PVID, so therefore the people that are working
6 in that area, there's not going to be that much
7 need because there's not going to be that much
8 water going there.

9 So who's -- who is the one that has the
10 jurisdiction over the water there, if they're
11 using both -- if they're using from well and
12 they're using from PVID, so where -- how can you
13 get PVID water in to your land if that's all they
14 do. The PVID, the -- here in Blythe, anyway, it
15 might be a little bit different in other places,
16 but here in Blythe, all the PVID employees, what
17 they do is they make ditches, and they're the ones
18 that supply the water to the agricultural land.
19 They're the ones that make it to go in to that
20 area so that there can be agriculture, so that
21 there can be workers and all that kind of stuff,
22 and planting.

23 So if they have no jurisdiction over
24 anything, so how -- how does a rancher contract
25 with them if they have no jurisdiction over -- I

1 don't know if I'm making myself clear.

2 MR. GALATI: Well, I think there's --

3 MS. GARNICA: But --

4 MR. GALATI: -- there's several
5 questions there, and I think Mr. Harvey, Dr.
6 Harvey could probably address them.

7 If I could maybe summarize, the first
8 one is the fact that PVID, or that the lemon
9 orchard uses PVID surface water and drills
10 groundwater, how is that reconciled and how is
11 that accounted for.

12 And, two, how would this project be
13 accounted for if it drills groundwater.

14 Is that --

15 MS. GARNICA: Yes, or -- or, yeah, if --
16 if there's no binding contract, that that means
17 you can use any amount of water you want, because
18 there's not even anything that was going to be
19 specific or is going to specify the exact amounts.
20 That means you would be able to go over your
21 boundaries.

22 MR. GALATI: We just -- Dr. Harvey, do
23 you have a copy of Exhibit 51 in front of you?

24 DR. HARVEY: No, I gave it to you. That
25 would be the revised language on the mitigation of

1 Soil and Water, or the condition -- Soil and Water
2 12?

3 MR. GALATI: Could you explain what that
4 says?

5 DR. HARVEY: Yes. This does specify,
6 and we do have specified in our application to the
7 Commission, in our testimony to the Commission, in
8 the Water Conservation Offset Program, and as a
9 condition in this measure imposed, or recommended
10 by the Staff for the Commission's adoption, a
11 stipulation that 3,000 acre/feet per year is the
12 maximum amount of water that we could use. So
13 there definitely is a cap on water that we can use
14 to serve the power plant.

15 The other part of your question, on the
16 Mesa there are some users that pump Palo Verde
17 surface water, water that's diverted from the
18 Colorado River at Palo Verde Dam, and delivered
19 through the Palo Verde Irrigation District's
20 system of canals and laterals, and then pumped up
21 onto the Mesa and used for irrigation on the Mesa.

22 In addition to that source of water for
23 agriculture on the Mesa, many of the agricultural
24 users have their own wells to supplement that
25 water, and most of those would blend some of that

1 water or -- or however they -- however they manage
2 the two sources. They have a contract with Palo
3 Verde Irrigation District for the water that is
4 obtained from the surface water system. They do
5 not have a contract for groundwater that they use.
6 The groundwater they use is governed, as Mr.
7 Bouillon indicated, under California law for
8 groundwater use.

9 So there is a definite difference
10 between water obtained from groundwater and water
11 obtained from surface water. No other user on the
12 Mesa accounts for its groundwater in the way that
13 we are proposing to do, or has any kind of
14 conservation offset program, accounting offset
15 program in the way that we have proposed to do.
16 This is an effort by this project to go an extra
17 mile and relieve those issues as the Bureau of
18 Reclamation raised them relative to groundwater,
19 and as the Palo Verde Irrigation District sees
20 them as a possible future policy.

21 I might also point out the differences
22 in water quality, that the surface water that is
23 obtained from the Colorado River is on the order
24 of 700 to 800 parts per million in total dissolved
25 solids. That means it's relatively fresh water.

1 The water that's pumped from groundwater is higher
2 in solids than that, over 1,000 parts per million,
3 and that's the water that we'll be using for the
4 power plant and the water that some agricultural
5 users are blending with surface water for their
6 use in irrigating crops.

7 Does that help at all?

8 There are two sources of water --

9 MS. GARNICA: Yes, I -- that part I
10 understand.

11 DR. HARVEY: -- one -- one that is
12 contracted with Palo Verde Irrigation District,
13 the surface source, and one that is not
14 contracted, the groundwater source.

15 MS. GARNICA: I don't have -- I don't
16 have any further questions at this time.

17 HEARING OFFICER BOUILLON: Thank you.

18 PRESIDING MEMBER KEESE: Thank you. I
19 think you have actually cleared up an issue. I
20 think we've heard a reasonably clear explanation
21 of -- response to your questions here.

22 HEARING OFFICER BOUILLON: Do you have
23 any redirect?

24 MR. GALATI: Yes. Just very briefly.

25 But before I have any redirect I was wondering if

1 Ms. Garnica had any questions for Mr. Sydnor
2 regarding his supplemental testimony. He is
3 scheduled to leave tonight, and pending an order
4 from the Committee that he stay, I'd like to see
5 if he will be excused.

6 HEARING OFFICER BOUILLON: Ms. Garnica,
7 have you had an opportunity to examine this Number
8 52? What he has --

9 MS. GARNICA: That's this one right
10 here.

11 HEARING OFFICER BOUILLON: His testimony
12 appears to contain only really a slight difference
13 in the wording of Soil and Water Number 7
14 condition. We have a slight argument with how
15 that wording should be different than the Staff
16 does, about how the monitoring program should
17 work. And the majority of his testimony seems to
18 be in agreement with the Staff's method of site
19 specific aquifer testing. Is that --

20 MR. SYDNOR: Yes. Correct.

21 HEARING OFFICER BOUILLON: Is that too
22 general a statement?

23 MR. SYDNOR: I'd say that's correct. We
24 have a little bit of a disagreement on what the
25 actual -- or what the number is that we have

1 chosen for the analysis, and we both agree that we
2 should look at site specific values to get there,
3 and then the -- the monitoring and mitigation we
4 have proposed, we would like to see based upon
5 actual conditions measured at the site, versus
6 predicted conditions.

7 PRESIDING MEMBER KEESE: You're going to
8 stay through to 5:00 o'clock?

9 MR. SYDNOR: Yes, sir.

10 PRESIDING MEMBER KEESE: You'll be here
11 while we hear Staff? Okay. Well, why don't --
12 can we hold off until --

13 MR. SYDNOR: Oh, yeah. I just wanted to
14 know if she had any additional questions.

15 PRESIDING MEMBER KEESE: Right. I -- I
16 think --

17 HEARING OFFICER BOUILLON: While the
18 Staff puts on their testimony --

19 PRESIDING MEMBER KEESE: While the Staff
20 puts on their testimony, Ms. Garnica, if -- if
21 you're going to have a question for him, it does
22 seem, as Mr. Bouillon has suggested, that his
23 testimony is limited. So if you're going to have
24 a question, it would be -- it would be nice if you
25 could get it -- try to get it in by 5:00 o'clock.

1 MS. GARNICA: I know -- I know his time
2 is precious, but our time is going to be a lot
3 more, because we're going to be here -- we're
4 going to be here for -- this is our livelihood,
5 this is our lifetime here. And I know he has to
6 go --

7 PRESIDING MEMBER KEESE: Right. Well,
8 we're going to --

9 MS. GARNICA: Yeah.

10 PRESIDING MEMBER KEESE: -- we're going
11 to hear that, we're going to go to Staff next, so
12 --

13 HEARING OFFICER BOUILLON: You're going
14 to get an opportunity, so --

15 PRESIDING MEMBER KEESE: All right.

16 HEARING OFFICER BOUILLON: -- we're
17 going to accommodate you.

18 All right. Could we have the Staff
19 witnesses on the same topics now.

20 MR. GALATI: I'm sorry, Mr. Bouillon. I
21 did have a couple of real --

22 HEARING OFFICER BOUILLON: Oh, I'm
23 sorry. You did have some redirect. Go ahead.

24 MR. GALATI: Yes. I just wanted to ask
25 the panel here.

1 First, Mr. Sydnor, based on your
2 analysis of local and regional groundwater
3 impacts, do you think the project, with the
4 mitigation that is proposed by Staff and your
5 recommended changes to that mitigation, will
6 result in any significant impacts?

7 MR. SYDNOR: No.

8 MR. GALATI: Would that be -- would your
9 answer be the same for any significant cumulative
10 impacts?

11 MR. SYDNOR: Yes. It'd be the same
12 answer.

13 MR. GALATI: Would you like me to move
14 these into evidence now?

15 HEARING OFFICER BOUILLON: No, let's
16 wait until -- maybe we can do it all at the same
17 time.

18 MR. GALATI: Okay. No further
19 questions.

20 HEARING OFFICER BOUILLON: Let's turn to
21 the Staff now, and put on their Water people.

22 MS. DE CARLO: The Staff witnesses for
23 Land Use and Water Resources will be Melinda
24 Rivasplata, Rich Sapudar, and Linda Bond.

25 I believe they need to be sworn in, Ms.

1 Rivasplata.

2 (Thereupon Melinda Rivasplata was,
3 by the reporter, sworn to tell the
4 truth, the whole truth, and nothing
5 but the truth.)

6 TESTIMONY OF

7 MELINDA RIVASPLATA

8 called as a witness on behalf of Commission Staff,
9 having first been duly sworn, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. DE CARLO:

13 Q Would you please state your full name
14 for the record?

15 A My name is Melinda M. Rivasplata.

16 MS. DE CARLO: Before we proceed, I
17 believe we do need to mark Staff's FSA and
18 Supplemental Testimony. Should we do that now?

19 HEARING OFFICER BOUILLON: Yes. The FSA
20 we will mark as Exhibit Number 53, and that will
21 be the entire FSA, and then we'll refer to
22 specific sections -- specific topics of it, I
23 suppose.

24 (Thereupon Exhibit 53 was marked
25 for identification.)

1 HEARING OFFICER BOUILLON: And the
2 Supplemental Testimony, as a package, I believe we
3 can mark as Exhibit Number 54. And that is the
4 additional testimony and errata, original mailed
5 in Sacramento November 22nd.

6 (Thereupon Exhibit 54 was marked
7 for identification.)

8 BY MS. DE CARLO:

9 Q Do you have a copy before you of your
10 testimony in Land Use, which consists of testimony
11 filed in Exhibit 53?

12 A Yes, I do.

13 Q And your supplemental testimony in
14 Exhibit 54?

15 A Yes.

16 HEARING OFFICER BOUILLON: Ms. DeCarlo,
17 before you begin, would you please inform the
18 Commission what page the -- what page of Exhibit
19 53 you're referring to?

20 MS. DE CARLO: Oh, sure. I'm sorry. It is
21 the Land Use section, page 201, beginning.

22 BY MS. DE CARLO:

23 Q And was a copy of your qualifications
24 filed with the Staff Assessment which has been
25 identified as Exhibit 53?

1 A Yes, it was.

2 Q Are the facts contained in the documents
3 you are sponsoring true and correct, to the best
4 of your knowledge?

5 A Yes, they are.

6 Q Do the opinions contained in the
7 documents that you're sponsoring represent your
8 best professional judgment?

9 A Yes.

10 Q Could you please summarize your
11 testimony for us?

12 A Yes. The Land Use assessment prepared
13 for the Blythe Energy Project focused the analysis
14 on Land Use on three main components of the
15 project. That was the plant site, the linear
16 features, including the transmission lines and
17 pipelines, and the Water Conservation Offset
18 Program.

19 The significant issues that were
20 addressed in the Land Use section were the
21 consistency of the project with adopted land use
22 ordinances and regulations, including adopted land
23 use plans and zoning regulations; impacts to land
24 uses of the power plant and the linear features;
25 and impacts to agriculture as a result of the

1 Water Conservation Offset Program.

2 The findings of the land use analysis
3 are as follows. The Staff found that the -- the
4 project is consistent with adopted plans and
5 policies and zoning regulations of the City of
6 Blythe. The City of Blythe recently annexed the
7 plant site, and some of the portions of the
8 pipeline route -- the remainder of the pipeline
9 route remains in the unincorporated area of
10 Riverside County.

11 The project is consistent with the local
12 land use and planning regulations of the City of
13 Blythe, as well as linear transmission facilities
14 and the pipeline route. The power plant complies
15 with the zoning regulations of the general
16 industrial zone, with the exception of the heat
17 recovery steam generation stacks, which exceed the
18 height limitation in the general industrial zone.
19 The city recently adopted an advisory resolution
20 recommending approval of a variance for the stack
21 height; therefore, the power plant is considered
22 consistent with the city planning regulations.

23 The pipeline route through the
24 unincorporated county area is also generally
25 consistent with Riverside County land use

1 regulations.

2 Another issue area was consistency of
3 the power plant with the Blythe Airport. The
4 project was found to be consistent with the Blythe
5 Airport comprehensive land use plan, and
6 compatible with the airport operations. The
7 project was reviewed by the Riverside County
8 Airport Land Use Commission for consistency, and
9 that Commission determined that the power plant is
10 consistent with the comprehensive land use plan.
11 The Federal Aviation Administration also submitted
12 correspondence indicating that they believe the
13 power plant to be consistent with the airport
14 operations.

15 The other issue areas that the Land Use
16 section addressed is compatibility with adjacent
17 land uses. Staff concluded that the power plant
18 would be compatible with the surrounding land
19 uses, including agricultural operations in the
20 area, and other nearby land uses, including
21 residential land uses.

22 Linear features, such as the
23 transmission lines, were also found to be
24 compatible with surrounding land uses. They would
25 not be -- conflict with the existing lemon orchard

1 that is immediately adjacent to the east. That
2 lemon orchard does not use aerial spraying,
3 therefore it was not considered to be a conflict
4 with agricultural use.

5 The route of the gas pipelines was also
6 consistent with surrounding land uses in that the
7 pipelines follow mostly existing roads right-of-
8 ways, and would not conflict with adjacent land
9 uses.

10 The Water Conservation Offset Program
11 was of some concern, and was analyzed in the Land
12 Use section. With the adoption of the irrigation
13 rights agreement that would include the lands
14 adjacent to the airport, the land use analysis
15 found that there would be no conflict with
16 agriculture, since those lands are not currently
17 under production and there would be no impact to
18 agriculture as a result of the Water Conservation
19 Offset Program.

20 Q Does that conclude your testimony?

21 A Yes, it does.

22 MS. DE CARLO: Staff would next like to
23 call Richard Sapudar for Water Resources.

24 HEARING OFFICER BOUILLON: Yes. Before
25 you do that, I'd like to ask one question, just to

1 clear something up.

2 You spoke of a pipeline route. It's my
3 understanding that there are still two pipeline
4 routes under consideration here. Does your
5 testimony apply equally to both of them?

6 THE WITNESS: There is the El Paso
7 Natural Gas pipeline, and then the SoCal Gas
8 pipeline, and that applies to both of those
9 pipeline routes.

10 HEARING OFFICER BOUILLON: Thank you.

11 Yes, please continue.

12 MS. DE CARLO: I believe Richard -- Mr.
13 Sapudar needs to be sworn in, as well.

14 (Thereupon Richard Sapudar was,
15 by the reporter, sworn to tell
16 the truth, the whole truth, and
17 nothing but the truth.)

18 TESTIMONY OF

19 RICHARD SAPUDAR

20 called as a witness by Commission Staff, having
21 first been duly sworn, was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MS. DE CARLO:

25 Q Could you please state your full name

1 for the record?

2 A Richard A. Sapudar.

3 Q Do you have with you a copy of your
4 testimony in FSA labeled Exhibit 53, in Water
5 Resources, and your supplemental testimony in
6 Exhibit 54?

7 A Yes, I do.

8 Q And was a copy of your qualifications
9 filed with the Staff Assessment which has been
10 identified -- I'm sorry.

11 And was a copy of your qualifications
12 filed with the supplemental testimony labeled as
13 Exhibit 54?

14 A I believe it was.

15 Q Are the facts contained in the documents
16 you are sponsoring true and correct to the best of
17 your knowledge?

18 A Yes, they are.

19 Q Do the opinions contained the documents
20 that you're sponsoring represent your best
21 professional judgment?

22 A Yes, they do.

23 Q Could you please summarize your
24 testimony?

25 A Yes. I'm with the Water and Soil

1 Resources Technical Section, and the analysis we
2 do on power plant siting projects involves water
3 resources; water quality; wastewater; stormwater
4 discharges; soils and erosion; impacts related to
5 these areas. Mitigation proposed for these areas,
6 and also compliance with applicable LORS.

7 For the Blythe Energy Project, we found
8 that probably one of the biggest ones we had to
9 deal with was the issue of the groundwater use.
10 Realizing early on that, as the Applicant's
11 obviously pointed out, that this is a complicated
12 area, and we wanted to go to the source to find
13 out exactly how they interpreted their
14 responsibilities.

15 We sent a letter to the U.S. Bureau of
16 Reclamation asking them basically what their
17 jurisdiction is with regard to the groundwater.
18 And the letter that's been referenced on -- on
19 several occasions here, I have in front of me, and
20 I'd like to read a few passages out of it that
21 pretty much lay out exactly where the Bureau
22 stands on this water use.

23 And the issue here is that this may be
24 groundwater, but it's in hydraulic continuity with
25 the Colorado River; therefore, the Bureau

1 considers it to be Colorado River water.

2 HEARING OFFICER BOUILLON: What document
3 are you reading from?

4 THE WITNESS: I'm reading from the
5 document to Robert Therkelsen, of the CEC, from
6 the Regional Director, or Robert W. Johnson, of
7 the USBR. The date on the document is August 9th.
8 I believe it was docketed on August 11th.

9 HEARING OFFICER BOUILLON: Are you
10 making that an exhibit, Counsel?

11 MR. GALATI: I actually had it marked as
12 Exhibit 40. It's the same document.

13 THE WITNESS: Okay. Great.

14 BY MS. DE CARLO:

15 Q Okay.

16 A In response to our -- to our questions,
17 the Bureau responded that authorized use of
18 Colorado River water requires an entitlement
19 which, except for federal reserved rights,
20 includes a contract with the Secretary.

21 It says, Reclamation's jurisdiction over
22 water pumped from wells, such as proposed under
23 this project, only applies if that water will be
24 replaced by Colorado River water.

25 Analysis by the project sponsors has

1 concluded that these wells would likely pump water
2 that would be replaced by Colorado River water, as
3 defined by Reclamation's accounting surface
4 methodology. Based on this information, water
5 pumped from these wells must be in accordance with
6 an existing entitlement and a contract with the
7 Secretary. It is our view that because the wells
8 would be located within the PVID, any consumptive
9 use of this water by the project would be assigned
10 to PVID's entitlement and accounted for in their
11 annual consumptive use.

12 In summary, we do not have jurisdiction
13 over the permitting and establishment of wells
14 along the lower Colorado River in the states of
15 Arizona, California, or Nevada. However, an
16 entitlement consistent with the existing law of
17 the river is required for any water pumped from
18 wells that will be replaced by Colorado River
19 water. An offset program like that envisioned for
20 this project will satisfy that requirement. As
21 long as the lands involved are within the PVID,
22 the water use is included as part of PVID's
23 reported consumptive use to Reclamation, and the
24 consumptive use is consistent with the California
25 priority system for the use of Colorado River

1 water.

2 Our discussions with the Bureau, and
3 their responses to our request for this
4 information, indicates to us that for authorized
5 use of Colorado River water, you either have to
6 have a contract with the Bureau or an agreement
7 with a Bureau contractor. Any other use of that
8 water would be unauthorized use. And that's the
9 unauthorized use that the Bureau is intending to
10 pursue, as discussed by the Applicant, within the
11 next few years, using the accounting surface
12 model.

13 Therefore, the Soil and Water Condition
14 12 that we proposed, and which we've been
15 discussing as Exhibit 51, addresses that -- that
16 issue, and it requires the Applicant to have such
17 an agreement in place so that their use of
18 Colorado River water will be authorized, and it
19 will be accounted for as the Bureau requires, as
20 the watermaster of the Colorado River.

21 We don't really view this as an option
22 at this time. Based on the Bureau's response, we
23 view it as a requirement.

24 I just wanted to make that -- that
25 particular aspect of how important this Water

1 Conservation Offset Program and the Long Term
2 Irrigation Right Agreement is to this project.

3 What we've done is we have gone through
4 and we've looked at the Water Conservation Offset
5 Program that was attached to that -- that letter
6 that I just read, that the Bureau said would meet
7 their requirements both now and in the future for
8 authorized use of Colorado River water. And what
9 we've done is we've taken a look at the Long Term
10 Irrigation Rights Agreement we received, I think
11 on the 17th, just a few days ago.

12 And we found that the LTIR, the Long
13 Term Irrigation Rights Agreement, does contain the
14 elements of the WCOP, the Water Conservation
15 Offset Program, that the Bureau said would meet
16 their requirements.

17 In addition, the Applicant also included
18 several areas that we found in our Final Staff
19 Assessment that we recommended be included in a
20 Water Conservation Program. They did not include
21 them all. I think that's one of those things
22 where we have a professional disagreement with the
23 -- with the Applicant. But the disagreement does
24 not center on a significant adverse impact related
25 to the project's water use. Therefore, it's --

1 we're just considering a disagreement.

2 But we do agree on the fact that -- that
3 they are going to have this agreement in place.
4 And for the life of the project.

5 The other aspect is Soil and Water 12
6 also limits the project's water use at 3,000
7 acre/feet per year. We also have an additional
8 Soil and Water condition that requires the project
9 to record their water use on a monthly basis, and
10 file an annual report to both the USBR, the Energy
11 Commission Compliance Program Manager, and also
12 the PVID. So we are going to be tracking their
13 water use.

14 The other major areas we looked at with
15 this project was the wastewater discharge.
16 They're going to be discharging about four gallons
17 per minute to evaporation ponds. The project has
18 demonstrated that they can comply with the
19 Regional Water Quality Control Board regulations
20 under Title 27. They did file a report of waste
21 discharge with that agency, and they did receive
22 draft waste discharge requirements demonstrating
23 that they will be able to comply with the law for
24 discharge -- wastewater to those ponds.

25 One other area that we looked at was

1 there was some trace contaminants found during
2 initial groundwater sampling of the water that the
3 project will be using. While those concentrations
4 of those chemicals do not appear to be a problem
5 at this time, what we didn't know is whether or
6 not the project's pumping would draw higher
7 concentrations of those chemicals into the water
8 supply and be released as drift, or discharged
9 into the ponds, which would make them out of
10 compliance with the various regulations.

11 So we instituted -- we worked out with
12 the Applicant that they would monitor for these
13 chemicals on an annual basis for the first five
14 years of operation, to determine whether or not
15 those chemicals' concentrations were increasing,
16 and at that time the need for continued monitoring
17 or some type of pre-treatment would be determined.

18 And those were the major issues I had
19 for this project.

20 MS. DE CARLO: Staff would also like to
21 call Linda Bond as a sponsor of Water Resources
22 testimony.

23 (Thereupon Linda Bond was, by the
24 reporter, sworn to tell the truth,
25 the whole truth, and nothing but

1 the truth.)

2 TESTIMONY OF

3 LINDA BOND

4 called as a witness by Commission Staff, having
5 first been duly sworn, was examined and testified
6 as follows:

7 DIRECT EXAMINATION

8 BY MS. DE CARLO:

9 Q Would you please state your full name
10 for the record?

11 A Certainly. My name is Linda Bond.

12 Q Do you have with you a copy of your
13 testimony in Exhibits 53 and 54 of the Staff --
14 Final Staff Assessment and Supplemental Testimony?

15 A Yes, I do.

16 Q And was a copy of your qualifications
17 filed with the Supplemental Testimony, Exhibit 54?

18 A Yes, it was.

19 Q Are the facts contained in the documents
20 you are sponsoring true and correct to the best of
21 your knowledge?

22 A Yes, they are.

23 Q Do the opinions contained in the
24 documents that you're sponsoring represent your
25 best professional judgment?

1 A Yes, they do.

2 Q Could you please summarize your
3 testimony?

4 A Certainly. The main issue of concern
5 that I focused on was the issue of well
6 interference. And well interference is the
7 lowering of the water table in response to
8 pumping. Project pumping will cause water levels
9 to decline in the vicinity of the project well
10 site. And my job was to analyze whether these
11 changes in water levels caused by project pumping
12 would create substantial declines for nearby
13 existing well owners.

14 The potential impacts that could occur
15 would be, number one, if water levels are lower it
16 requires more energy to lift that water to the
17 land surface. So an increase, a lowering of
18 groundwater levels can be translated into a
19 financial effect, the financial cost of additional
20 energy cost.

21 Secondly, particularly with low capacity
22 shallow wells, which are frequently domestic
23 wells, there's a potential for the saturated
24 interval that the well is pumping from to
25 significantly -- be reduced significantly. If the

1 well, for example, only penetrates, say, 20 feet
2 of the saturated interval of the aquifer, and
3 water levels due to project pumping would go down
4 five feet, you've reduced the interval from which
5 the nearby well could pump from by 25 percent.
6 That's just an example.

7 Another potential problem would be
8 groundwater pumps have this apparatus called a
9 bowl, and the bowl is the device from which the
10 water is pumped from. If water levels decline
11 enough so that bowl is above the water table,
12 either sometimes or occasionally, or even once, it
13 can cause the pump to be damaged, as well as not
14 being able to pump water from that well.

15 And then, thirdly, if a well is shallow
16 enough and the effects of the project draw-down is
17 enough, it could actually de-water the wells, so
18 that even if you lowered your pump and lowered
19 your pumping bowl, you still couldn't pump water
20 from your well anymore.

21 Those are all potential impacts. So
22 those were the concerns that I had.

23 To analyze the potential for these
24 impacts, I needed to analyze the draw-down. What
25 I based my analysis of potential draw-down on was

1 the USGS study that Mr. Sydnor referred to, the
2 USGS 1973 report on the Palo Verde area.

3 The basis for my selection of data from
4 that report, I selected pumping tests that the
5 USGS reported on, that were rated either good or
6 excellent. There were two ratings that the USGS
7 gave for the pumping tests that they looked at in
8 the Palo Verde area, and the rating system was
9 excellent, good, fair, and poor. And they looked
10 at how well the calculations of permeability --
11 transmissivity, it's a measure of permeability of
12 the aquifer, whether it conformed with the
13 theoretically accurate values. And then the
14 second evaluation was the reliability of that
15 transmissivity value that had been calculated.

16 So my -- my selection basis -- the basis
17 of my selection was that both of these criteria
18 had to be good.

19 Then, finally, I also looked at what --
20 what were the likely locations for nearby wells.
21 And I based this on land use maps that were
22 published by the Applicant, showing where
23 residences and businesses were located. I checked
24 with the City of Blythe to find out if the city
25 was providing piped in water for any of those

1 businesses or residences, and the city reported to
2 me that they did not provide water to any -- any
3 of the businesses or residences up in that area,
4 except for the airport. The airport does have its
5 own groundwater system.

6 I also checked with the Palo Verde
7 Irrigation District --

8 HEARING OFFICER BOUILLON: Excuse me.
9 You said the city has its own groundwater system?

10 THE WITNESS: For the airport.

11 HEARING OFFICER BOUILLON: Okay. But
12 you had -- right before that you were talking
13 about the city piping in water. That's not a
14 groundwater system.

15 THE WITNESS: Yes, it is. The city of
16 Blythe's water supply is groundwater.

17 HEARING OFFICER BOUILLON: Well, I
18 understand that. But they're not pumping it out
19 to the airport.

20 THE WITNESS: No. I'm sorry, the
21 airport has its own -- thank you, that's -- that's
22 good clarification. The airport has its own water
23 supply, managed by the city. And it -- the
24 airport has its own well, and serves -- serves the
25 businesses at the airport. Okay. Two separate

1 systems, but both run by the city. Okay.

2 HEARING OFFICER BOUILLON: Excuse my
3 interruption.

4 THE WITNESS: No, no. That was fine.

5 Finally, I looked at the agricultural
6 operations out on the Mesa. I called PVID and
7 asked them if they were providing water to the
8 citrus orchard. That's the -- the closest
9 agricultural operation to the project. And they
10 said yes, they were providing surface water to
11 that, and all the nearby agricultural operations.
12 The -- the nearest site that was agricultural
13 operation that depended on groundwater was five or
14 six miles away.

15 Okay. So it looked to me like the main
16 concern was these residences and businesses.

17 So, anyway, based on this analysis,
18 based on the USGS groundwater tests, there were
19 only two of them that -- that received a good
20 rating. I -- essentially you have two values.
21 One would represent a high value and one would
22 represent a low value.

23 All I was attempting to do with this
24 analysis was to determine if there was a potential
25 for an impact from the project pumping, and based

1 on that analysis I determined that there would be
2 a potential.

3 The method which I recommended for
4 determining actual -- actual impacts and the need
5 for mitigation would be to perform aquifer tests
6 on the site wells. How that works is the site
7 wells would be pumped at a constant rate. You
8 measure the pumping rate, the draw-down in the
9 well, and -- I'm sorry, not the draw-down in the
10 well, but the draw-down that is caused by the
11 pumping in a nearby well. And from that
12 information, you can calculate what the aquifer
13 parameters are in the area of the project.

14 Then the standard approach is to use
15 those values that you've calculated to then
16 recalculate what the impacts would be at a
17 variation of pumping rates, at the various
18 locations that you're concerned about. That would
19 be the process for identifying if there were
20 impacts at nearby existing wells.

21 Based on this analysis, in the
22 Conditions of Certification what I've recommended
23 is, first, that the water used by the project be
24 metered, so that we -- we know what rate of
25 pumping is actually occurring. Draw-down is going

1 to be proportional to the rate of pumping. The
2 more pumping, the higher the rate of pumping, the
3 lower the draw-down. The wider the area of
4 influence. That was Soil and Water Condition
5 Number 4.

6 Condition Number 5 addresses redoing the
7 -- or doing the aquifer tests on the site specific
8 wells.

9 Condition Number 6 is to recalculate the
10 well interference, the draw-down that would occur
11 on nearby existing wells.

12 And Soil and Water 7 addresses
13 compensation for impacts.

14 There were two different analyses I
15 recommended would be done with the data that's
16 produced from the aquifer test. First of all, the
17 maximum pumping rate that the plant would operate
18 on, based on operating at full capacity during the
19 hottest summer months, would determine what the --
20 what the sort of peak draw-down would be, what the
21 greatest draw-down would be.

22 That analysis would tell you where
23 existing well bowls needed to be lowered. It
24 doesn't really matter what the average pumping
25 rate will be when it comes to where your pump bowl

1 is, because it's sort of like -- well, let's just
2 put it in terms of water. It doesn't matter if
3 you have on average enough water to drink. If
4 you've got three days with no water, you're in big
5 trouble.

6 If the draw-down during the summer
7 months, if only for a few days goes below the
8 level of these bowls, the wells are going to be
9 ruined. The pumps'll be ruined, excuse me, not
10 the wells. The pumps.

11 PRESIDING MEMBER KEESE: Excuse me. Let
12 me ask -- let me try to focus myself.

13 THE WITNESS: Sure.

14 PRESIDING MEMBER KEESE: Your Soil and
15 Water 7 was general and suggested that details had
16 to be added.

17 THE WITNESS: Yes.

18 PRESIDING MEMBER KEESE: And the --
19 we've heard from the Applicant a set of details, I
20 guess you'd call it. Are you -- are we coming
21 close to their details, or are we going to
22 disagree with their details, or --

23 THE WITNESS: I would say that there are
24 some segments of the language that they've
25 proposed that could be incorporated into the --

1 that I could support incorporating into the
2 conditions, but there are portions that I disagree
3 with.

4 PRESIDING MEMBER KEESE: Okay. Well,
5 I'd like, if you can focus for me on --

6 THE WITNESS: Fine.

7 PRESIDING MEMBER KEESE: -- on --
8 they've laid out detail.

9 THE WITNESS: Fine.

10 PRESIDING MEMBER KEESE: And I -- I
11 haven't -- I don't see a detail from over here.
12 So tell me where you're going to disagree with
13 their detail, and the rationale, please.

14 THE WITNESS: Okay. Great. Okay.
15 There's a disagreement on how we calculated the
16 potential impact. I don't think that's
17 particularly important. We could -- we could talk
18 about why there's a difference, but we both agree
19 that the impacts need to be addressed by the on
20 site --

21 PRESIDING MEMBER KEESE: That -- I
22 thought we were already -- it seemed to me that in
23 the -- in the Applicant's proposal, that any
24 impact will be mitigated, and gets around that
25 detail. I don't know.

1 THE WITNESS: Well, I --

2 PRESIDING MEMBER KEESE: Is that --

3 THE WITNESS: -- I really appreciate --

4 PRESIDING MEMBER KEESE: Is that too
5 general?

6 THE WITNESS: -- and support that the
7 Applicant intends to mitigate all impacts, and
8 that's what -- what Staff is recommending. But
9 how you determine what the impacts are, that's
10 where the differences are.

11 Now, one point of agreement is we both
12 agree that impacts should be -- actually, maybe we
13 don't agree on this. The Applicant does say that
14 impacts should not be based on the preliminary
15 estimate, or the preliminary calculation impacts
16 that was done up to this point. It should be
17 based in part on the actual pumping test. Okay.

18 How -- the fundamental way I see us
19 disagreeing at this point is that I think that
20 impacts should be based on the aquifer test. What
21 the Applicant has proposed, in addition to that,
22 is to base mitigation and compensation on
23 monitoring, as well. I think that there are ways
24 to accommodate incorporating that, but it's a much
25 more lengthy and complicated process to base

1 mitigation on ongoing monitoring.

2 One reason -- well, let me go back.

3 We're going to be able to determine at the onset,
4 we're going to have a pretty good idea of what the
5 maximum draw-down is going to be. It's important
6 that people get their pumps lowered and their
7 wells deepened before their wells go dry, or their
8 equipment gets damaged, or their water supply is
9 cut off.

10 The Applicant has proposed that
11 mitigation would not kick in until you were within
12 20 percent of -- of the target impact level that
13 they've established. What we don't know is how
14 long it will take to go from 20 percent to full
15 impact, and that time interval, without knowing
16 that time interval, there's no way of knowing if
17 there's enough time to go lower the wells, or
18 lower the pumps.

19 Okay. The other problem with monitoring
20 rather than basing it on the calculations that you
21 get at the beginning of the project, is that long
22 term changes in water levels, as opposed to a
23 short term pumping test, is confounded by
24 recharge, it's confounded by other pumpers. We've
25 mentioned the groundwater model that the Bureau is

1 developing, and that's been a source of debate,
2 and it will continue to be a source of debate.

3 When possible, and I think this is a
4 good case, it is better to base your mitigation on
5 something that you can resolve at the beginning of
6 the process. In order to really --

7 PRESIDING MEMBER KEESE: Let me -- does
8 that -- I have a question about how many wells are
9 impacted. And does -- does your analysis -- in
10 actuality, if a well goes down and is repaired,
11 you know which one went down. And we've -- so
12 we've drawn the line. If we say any impacted well
13 will be mitigated, we've drawn the line.

14 Does your scheme draw that same line, or
15 --

16 THE WITNESS: What my scheme does is say
17 let's figure out, based on the information we have
18 at the start-up of the project, which wells are
19 going to --

20 PRESIDING MEMBER KEESE: Are going to be
21 --

22 THE WITNESS: -- experience a
23 significant decline. And this takes care of it.

24 PRESIDING MEMBER KEESE: Are going to
25 experience it, or do experience it?

1 THE WITNESS: Are going to experience.

2 And the difference, the main difference between
3 the time lag there, between my proposal and the
4 Applicant's proposal, is the Applicant wants to
5 wait until the --

6 PRESIDING MEMBER KEESE: You see impact.

7 THE WITNESS: Until you see impact --

8 PRESIDING MEMBER KEESE: And you're
9 going to impute impact.

10 THE WITNESS: -- in that well.

11 PRESIDING MEMBER KEESE: Are you -- you
12 are disagreeing, then, that perhaps on --

13 THE WITNESS: Right.

14 PRESIDING MEMBER KEESE: -- whether
15 we're covering the -- how many square miles we're
16 covering, you --

17 THE WITNESS: Right.

18 PRESIDING MEMBER KEESE: -- you might be
19 at five, you might be two, or --

20 THE WITNESS: Yeah. I'm looking at a
21 radius of two square miles, which -- excuse me --
22 a radius of two miles. Okay. That radius could
23 reasonably be adjusted once we see what the -- the
24 draw-down is going to be, based on the aquifer
25 test.

1 The point is, is that if we -- you wait
2 until the impacts are starting to be seen, you may
3 see an impact in the, say, first six months of the
4 project. If the first six months of the project
5 is during a cool summer or the winter months, then
6 you've got to come back and look at that again
7 when the summer comes. And if the project is not
8 operating at maximum capacity that particular
9 summer, then you have to come back a third time
10 and lower wells. And in each case, you're going
11 to be pushing the clock as to whether you're going
12 to get that -- that well lowered before it goes
13 dry, before there's any damage to the well, before
14 these folks lose their water supply.

15 There's no provisions in the Applicant's
16 recommendations for -- for that kind of
17 possibility.

18 PRESIDING MEMBER KEESE: I -- a quick
19 reading, I didn't see anything about supplying the
20 water, and that would -- obviously, a dry well is
21 a problem.

22 THE WITNESS: Yeah.

23 PRESIDING MEMBER KEESE: It seems to me
24 that burn-out of a pump, they'd have to replace
25 it.

1 THE WITNESS: Right. And in the
2 meantime, they'd have to --

3 PRESIDING MEMBER KEESE: I mean, any of
4 the -- any of the costs implications, they'd have
5 to replace. And so that's -- that's their risk, I
6 guess. The risk that the other party is taking is
7 going dry, and you're saying that it would be
8 better to handle that preemptively, versus
9 watching what actually happens.

10 THE WITNESS: That's right. And -- and
11 the impacts from the project may not be -- the
12 maximum impacts may not be seen immediately. The
13 well going dry is -- is something that, like I
14 said, if you -- you might have to adjust it three
15 different times, and you might have to continue to
16 monitor. Things might be fine until you hit a
17 really hot summer when you're operating at maximum
18 capacity.

19 The other thing is, is that the
20 monitoring again becomes a complicated process,
21 because, for example, if you have a heavy
22 rainstorm, you have to account for that in your
23 monitoring. It is a three dimensional problem.
24 It is a -- a temporal problem, a temporal
25 question. It's a temporal problem to solve. It's

1 going to involve a lot of interpretation, and a
2 lot of debate. And it's going to be a more
3 complicated process.

4 The Applicant, for example, should not
5 receive credit for water levels going up because
6 of a rainstorm.

7 PRESIDING MEMBER KEESE: How deep is
8 this aquifer where -- where they're tapping,
9 generally?

10 THE WITNESS: I'd have to actually check
11 my notes. I'm working on so many projects at this
12 point, I can't tell you offhand. I'd have to
13 look.

14 The point is, is that domestic wells, it
15 doesn't really matter how deep the aquifer is for
16 a domestic well. It matters how deeply that well
17 goes into the saturated part of the -- of the
18 aquifer.

19 HEARING OFFICER BOUILLON: Ms. Bond, is
20 it fair to say that your scheme involves
21 predicting the potential for harm to the wells in
22 the area, and the Applicant is proposing a scheme
23 -- a scheme by which they will monitor them, and
24 when they see actual damage they'll mitigate that.

25 THE WITNESS: The method by which we

1 will make those two determinations are based on
2 the same physics. But the Applicant's -- my
3 proposal is complete, as far as how that impact
4 will be determined. The Applicant has proposed a
5 concept, lacking detail.

6 HEARING OFFICER BOUILLON: That's not
7 what I'm asking you. Is your concept based upon
8 actual harm, or is it on predicted harm?

9 THE WITNESS: It would be based on
10 predicted harm.

11 HEARING OFFICER BOUILLON: All right.
12 And is the Applicant's based upon actual harm?
13 The way they word it, the concept.

14 THE WITNESS: Yes.

15 BY MS. DE CARLO:

16 Q Ms. Bond, how accurate are the
17 predictions that you're -- you're requiring in
18 Condition Number 7?

19 A The method that I'm recommending will be
20 the -- the most accurate -- accurate calculation
21 that you can make. If the Applicant performs the
22 monitoring and the interpretation of the
23 monitoring correctly, they will essentially use --
24 they will use the exact same method I will. But
25 they'll wait to do -- do the remediation, do the

1 mitigation.

2 Q Does that conclude your testimony?

3 A Let me just review my notes for a minute
4 to see if I've covered everything.

5 I had a couple of other concerns. I had
6 some other concerns with -- with the Applicant's
7 proposed change in the conditions. They propose
8 that the people to be notified would be reduced
9 from a two mile radius from the site to their --
10 to the calculated five foot decline contour, based
11 on the site specific pumping test.

12 I'm also concerned that --

13 PRESIDING MEMBER KEESE: But -- but that
14 would expand, if the -- I mean, that would go -- I
15 don't think either of these plans is wrong. But
16 --

17 THE WITNESS: They don't make any
18 provision for expanding --

19 PRESIDING MEMBER KEESE: -- we're here,
20 and we're hearing

21 THE WITNESS: -- that area for
22 notification of -- of well owners, existing well
23 owners.

24 PRESIDING MEMBER KEESE: Well, they're
25 -- they're projecting it at somewhere, as I

1 recall, 3500 feet for the -- or 4.95, which is of
2 little --

3 THE WITNESS: Thirty -- the --

4 PRESIDING MEMBER KEESE: But if -- if it
5 is 6,000, they're proposing to go 6,000. If it's
6 7500, they're proposing to go 75. Wherever there
7 is an impact; right?

8 THE WITNESS: They don't mention in here
9 notifying well owners that are beyond their
10 calculated five foot draw-down contour based on
11 the site specific wells. They may be willing to
12 do that, but that's not what they're stated.

13 Okay.

14 HEARING OFFICER BOUILLON: Do you have
15 any disagreement with the -- the figure of five
16 feet, as such?

17 THE WITNESS: As far as mitigation goes.
18 That was the threshold that we recommended. The -
19 - the Applicant also included in their
20 recommended, or proposed Condition of
21 Certification, that the well owner be required to
22 provide quite a bit of information about their own
23 wells, the well construction, their water use, et
24 cetera. This information would be needed if you
25 were going to have to be interpreting ongoing

1 monitoring data. You don't need that information
2 if you base it on the project well test.

3 PRESIDING MEMBER KEESE: One other
4 question we all have up here is how many wells are
5 we talking about?

6 THE WITNESS: Fine. Let me answer that.
7 The -- the Applicant did not identify any wells --
8 the closest well was 8,000-something feet, just
9 based on land -- that was based on a well
10 inventory, wells that are registered with the
11 state and -- and other agencies. Just based on
12 land use maps, I identified a residence that was
13 about 3,000 feet from the site. Driving around
14 today, I verified this, and also noted that there
15 is at least, oh, I'd say maybe about ten
16 residences, and a few businesses. I could read
17 them off, but you don't need it.

18 So I'd say maybe 15 total --

19 PRESIDING MEMBER KEESE: Wells.

20 THE WITNESS: -- wells within -- within
21 the project site. So we're not talking about a
22 lot of wells, or a lot of people dependent on
23 them. But that's it.

24 My concern about all this information
25 that the Applicant was requesting in their

1 Conditions for Certification is, is I felt it
2 would be a burden to the existing well owners to
3 provide this information. But I also understand
4 that you can't do the monitoring analysis without
5 all this information.

6 I also was concerned that with the
7 monitoring proposal, that there is more potential
8 for disagreement about what the interpretation of
9 the monitoring results would be. And in the
10 process of working out those disagreements, again,
11 people's wells could go dry. It could be a
12 protracted problem, agreeing on what the impacts
13 are.

14 PRESIDING MEMBER KEESE: And if you had
15 a condition in there that said that the Applicant
16 -- that if some of these wells went dry, the
17 Applicant had to supply them with -- with tanked
18 in water until they --

19 THE WITNESS: That would be -- I think
20 that that would be a reasonable addition to the
21 conditions, if we went with this idea of waiting
22 until there was an impact.

23 HEARING OFFICER BOUILLON: Let me ask
24 you something about what you said about that
25 closest well being about 3,000 feet.

1 THE WITNESS: Yes.

2 HEARING OFFICER BOUILLON: It seems like
3 I've either heard or read somewhere in some of the
4 testimony that the closest residence to the
5 project is about 3500 and some feet away from the
6 project.

7 THE WITNESS: It's 3,000 --

8 HEARING OFFICER BOUILLON: Three
9 thousand --

10 THE WITNESS: -- feet. Yeah, 3,645.

11 HEARING OFFICER BOUILLON: Excuse me?

12 THE WITNESS: I think it's 3,645. Just
13 a second, I can check -- 3,465 feet.

14 HEARING OFFICER BOUILLON: That's about
15 3500, wouldn't you say?

16 (Laughter.)

17 THE WITNESS: Yeah. Okay, I'm sorry. I
18 -- I just mis-heard you.

19 HEARING OFFICER BOUILLON: And the next
20 -- next part of that is you said there was about
21 10 or 15 wells in the area.

22 THE WITNESS: Yes.

23 HEARING OFFICER BOUILLON: Was that your
24 two mile radius?

25 THE WITNESS: Yes. And that's my guess,

1 driving around today. And it's -- it was my guess
2 based on looking at the land use maps. I, like I
3 said, I called the city and they said no, anybody
4 out there who is using water, or residences, is
5 using their own groundwater well.

6 PRESIDING MEMBER KEESE: It seemed to me
7 that at least in one direction, that is towards
8 the airport, there's nobody out there. But I -- I
9 don't --

10 THE WITNESS: Drive out there again. I
11 thought there was nobody too, but I really looked
12 today --

13 PRESIDING MEMBER KEESE: Towards the
14 airport?

15 THE WITNESS: Toward the -- between the
16 --

17 PRESIDING MEMBER KEESE: Between this
18 plant and the airport?

19 THE WITNESS: Between the project site
20 and the airport is that house at the 3500 foot
21 distance, and then there's a -- some sort of
22 trucking company. There's two shooting ranges,
23 there's an animal control center, and a cluster of
24 three houses on the -- let me get oriented -- on
25 the north side of the highway, and then going back

1 over the other way toward town, there's a cluster
2 of kind of new looking houses on the other side of
3 the citrus grove.

4 PRESIDING MEMBER KEESE: So -- so maybe
5 15 within a two mile radius, and how many within a
6 one mile radius?

7 THE WITNESS: Within a one mile radius
8 -- let me check my notes from today. One mile
9 radius -- we're going to guess the trap clubs have
10 no water. Okay. But one, two, three, four, five,
11 six --

12 PRESIDING MEMBER KEESE: Maybe half --

13 THE WITNESS: Well, no. It looks like
14 maybe there's about ten within a mile, now that I
15 look at my notes.

16 PRESIDING MEMBER KEESE: Okay.

17 THE WITNESS: We were only paying
18 attention for about a mile.

19 PRESIDING MEMBER KEESE: Thank you.

20 HEARING OFFICER BOUILLON: Ms. Bond, I'd
21 refer you to Soils and Water Figure 1 in your FSA.

22 THE WITNESS: Sure.

23 HEARING OFFICER BOUILLON: Which sort of
24 diagrams the area.

25 THE WITNESS: Could you tell me what

1 page that is? Oh, I -- I know. It's probably the
2 -- I don't have it with me, but I -- okay. Yes.

3 HEARING OFFICER BOUILLON: It looks
4 within a one mile radius that there's either five
5 public facilities or residential/commercial
6 structures within that one mile radius, and then
7 another one that touches it, and another one just
8 outside it. Do you see that?

9 THE WITNESS: Uh-huh.

10 HEARING OFFICER BOUILLON: Is that
11 accurate, or are you saying that there's more than
12 that?

13 THE WITNESS: I -- I think there's a few
14 more buildings out there. And, of course, we were
15 also just watching the odometer on the car, so it
16 -- okay. The -- the small residential/commercial
17 spot due east of the site, it just shows as one --
18 one site overlapping the one mile radius. There
19 were at least three houses in that area. Rich, do
20 you remember how many houses were right there on
21 the edge of the Mesa?

22 MR. SAPUDAR: I recall three kind of --

23 THE WITNESS: At least three here.

24 MR. SAPUDAR: -- clustered there. Yeah.

25 THE WITNESS: Okay. And then if you go

1 west of the site, the one that is north of the
2 Hobson Way, the road there, that's the closest
3 one. Across the street was the trucking facility,
4 and then where you see the larger yellow site,
5 almost at the edge of the one mile radius, that's
6 where there were at least three houses, and
7 possibly -- possibly a -- possibly a residence
8 that is watering a very small, sort of -- a very
9 small orchard. We're talking maybe 20 or 40
10 trees. It didn't look like a commercial
11 operation.

12 PRESIDING MEMBER KEESE: Does Blythe
13 Airport draw from within that two mile area?

14 THE WITNESS: Blythe Airport is -- is --
15 I -- looking at this figure, it is within that two
16 mile radius. I made several calls but was not
17 able to find out from the city where the Blythe
18 Airport's well is. So the Blythe Airport well may
19 or may not be impacted.

20 Now, the Blythe Airport well would be a
21 well that I would tend to guess would be a deeper
22 well. The reason why it would be deeper is that
23 it's probably a higher capacity well, and it needs
24 more aquifer to draw from.

25 In any case, when I received the

1 Applicant's analysis of well interference, I think
2 it was -- I'd have to check when I received it,
3 there was a limited amount of time that I could
4 really canvass these. And -- and based on the
5 Applicant's efforts to identify nearby wells, they
6 hired a local firm --

7 PRESIDING MEMBER KEESE: Yeah. We -- we
8 may --

9 THE WITNESS: -- they didn't find every
10 --

11 PRESIDING MEMBER KEESE: -- we may hear
12 from the Applicant momentarily about -- they may
13 know exactly, so --

14 THE WITNESS: Yeah. Okay.

15 PRESIDING MEMBER KEESE: : Sorry to -- sorry
16 to take --

17 THE WITNESS: The wells are hard to
18 identify, because they're -- they're not
19 registered, as far as I know. And at this point I
20 am simply assuming that if someone's living out
21 there or running a business, they've got to have
22 water, and they've got to take it from the ground.
23 I don't have verification that there are wells at
24 those sites.

25 HEARING OFFICER BOUILLON: Did you also

1 contact the irrigation district to see if they are
2 supplying water to any of these people?

3 THE WITNESS: Yes. I asked the
4 irrigation district, and they said they were
5 supplying surface water to the -- all the nearby
6 orchards and agricultural enterprises. So I
7 decided not to worry about those wells. I didn't
8 include that in the list of wells I was -- I don't
9 there are wells, according to PVID.

10 HEARING OFFICER BOUILLON: Do you have
11 anything else?

12 THE WITNESS: That's what I'm checking
13 here.

14 HEARING OFFICER BOUILLON: After we
15 interrupted.

16 THE WITNESS: I could provide some
17 additional language to provide more details of how
18 I would see Soil and Water be set out, as far as
19 compensation goes. I think most of it would be
20 fairly logical suggestions.

21 I'm a little unclear on at what point we
22 need to finalize the -- the Condition of
23 Certification. For example, if it was agreed that
24 the Applicant should compensate folks, whether
25 they should put money into a fund at the -- fund

1 to be distributed when these wells are lowered. I
2 think the wells need to be lowered before the
3 project starts up. The pumps need to be lowered
4 and the wells need to be lowered if they're going
5 to be adversely impacted.

6 And I can go into that, but I think
7 we've got enough at the moment.

8 HEARING OFFICER BOUILLON: Ms. Bond, I
9 want to apologize to you and the audience for
10 laughing when you used the word logical in
11 connection with all of your proposals. I've been
12 practicing law for over 30 years, and I've never
13 met an expert witness yet who didn't think
14 everything they did was logical.

15 (Laughter.)

16 THE WITNESS: Well, when I'm -- yeah. I
17 -- I understand. But -- but I was more referring
18 to the Energy Commission's process. With -- with
19 the compression of the -- of the schedule, it's
20 hard to keep up with what needs to be finalized
21 when.

22 HEARING OFFICER BOUILLON: This may well
23 be a topic that will require some additional
24 briefing by all of the parties with regard to this
25 particular --

1 THE WITNESS: Yeah. I -- I think so.

2 HEARING OFFICER BOUILLON: -- set of
3 conditions.

4 THE WITNESS: So rather than my taking
5 up more time, I think we've got some basic stuff
6 to work through before we start worrying about the
7 details. Is that reasonable?

8 PRESIDING MEMBER KEESE: I think we'll
9 find out by the time cross examination is done.

10 THE WITNESS: Okay, good. Fine.

11 HEARING OFFICER BOUILLON: Mr. O'Brien,
12 do you have any questions? Okay.

13 MR. O'BRIEN: I have one question for
14 Staff, and it goes to the issue of the Applicant's
15 agreement with the City of Blythe to take prior
16 agricultural land, or take land that -- that I
17 assume sometime in the last 10 to 20 years was
18 used for agricultural purposes.

19 Is it not correct that they are
20 proposing now to keep that land out of
21 agricultural production, and is it a correct
22 inference that that issue is to be reviewed by the
23 U.S. Bureau of Reclamation in the next two years
24 when they come up with a plan regarding
25 groundwater use?

1 I'd like some clarification on that.

2 MR. SAPUDAR: Yeah. Our understanding
3 at this time is that based on our discussions with
4 the Bureau, and the fact that the original Water
5 Conservation Offset Program that they reviewed and
6 said that if the project met those -- those
7 requirements that authorized use of Colorado River
8 water, the requirements would be met, is they did
9 not specify a time -- a time limit for how long
10 the land has to be out of production. Just that
11 it had to be previously irrigated agricultural
12 land.

13 MR. O'BRIEN: Okay. So where does that
14 -- where does that leave Staff, in terms of what
15 the Applicant is proposing?

16 MR. SAPUDAR: As far as we're concerned,
17 and based on what the Bureau said they would
18 consider authorized use, based on the WCOP, I
19 guess we really have no choice but to accept what
20 the Bureau says as far as the legality of that.

21 I know that's one of the -- the aspects
22 where I was mentioning a professional disagreement
23 about water conservation plans. That's one of the
24 areas that we disagreed with the Applicant.
25 However, we're kind of in a position now where as

1 far as the water, use of the water supply issue
2 for the Colorado River, is we couldn't determine a
3 significant adverse impact to the water supply
4 based on the project's water use that required
5 mitigation.

6 MR. O'BRIEN: Okay. So --

7 MR. SAPUDAR: Does that --

8 MR. O'BRIEN: -- well, let me just ask
9 one follow-on question, then. Does that mean,
10 based upon the agreement that I believe the Staff
11 and the Applicant have reached insofar as
12 Condition Number 12 is concerned, that that issue,
13 from Staff's point of view, has been successfully
14 settled, then?

15 MR. SAPUDAR: It has been successfully
16 settled as far as that that agreement that is --
17 will allow the project to have authorized use of
18 Colorado River water, and it will be accounted for
19 under PVID's entitlement. Therefore, the project,
20 if they pump groundwater for their project, will
21 be -- will have authorized use of that water. I
22 hope that helps.

23 MR. O'BRIEN: Yes, it does. Thank you.

24 HEARING OFFICER BOUILLON: Does the
25 Applicant have any cross examination of these

1 witnesses?

2 MR. GALATI: Yes, we do. Ms.

3 Rivasplata, on Land Use 4, Condition Land Use 4,
4 the verification, page 240.

5 CROSS EXAMINATION

6 BY MR. GALATI:

7 Q Page 240.

8 A Okay.

9 Q That verification reads at least 60 days
10 prior to the start of construction of the power
11 plant. Is that correct?

12 A That's correct.

13 Q That condition and verification require
14 the Applicant to prepare a site development plan;
15 correct?

16 A That's correct.

17 Q If the Applicant were to prepare a site
18 development plan and it was the best site
19 development plan the City of Blythe and the Energy
20 Commission has ever seen, and you were able to
21 turn it around and approve it within 24 hours, the
22 Applicants could still not start construction for
23 60 days. Is that correct?

24 A I think that I would refer that to Lisa.
25 I'm not familiar with how the CPM handles the

1 verification.

2 MS. DE CARLO: I do apologize. There
3 are some -- there is some crossover with the
4 Compliance Project Manager and the individual
5 compliance -- Conditions of Certification.

6 I believe that the timeline, it's not a
7 definite timeline. Specifically, with regards to
8 the verification sections, they're flexible.
9 They're inherently flexible. It -- it states in
10 the Warren-Alquist Act that there is some
11 flexibility for the CPM and the Applicant to
12 decide upon timelines.

13 I believe if you gave us a perfect plan,
14 that we would not wait 60 days to approve it, and
15 allow you to start construction.

16 BY MR. GALATI:

17 Q Ms. Rivasplata, if -- the condition says
18 prior to the start of construction, the project
19 owner shall submit a site development plan for
20 review and comment, and to the CPM for review and
21 approval. Just the condition alone means you
22 can't start construction until it's approved;
23 correct?

24 A That's correct.

25 Q So whether it's approved 60 days prior

1 to construction or it's approved one day prior to
2 construction, you still can't build until it's
3 approved; correct?

4 A That's right.

5 Q And really, that at least 60 days really
6 is intended to make sure that you have enough time
7 to review it; correct?

8 A That's right.

9 HEARING OFFICER BOUILLON: Counsel, are
10 you suggesting an addition to that condition that
11 construction can begin immediately after approval
12 of the plan?

13 MR. GALATI: I -- that's exactly what
14 I'm suggesting. We -- we suggested we could live
15 with 30 days.

16 BY MR. GALATI:

17 Q So what I'm saying is, if it took you
18 180 days to review the site development plan
19 because it was not a very good one, the Applicant
20 still couldn't start construction; correct?

21 A I assume so.

22 Q So the 60 -- at least 60 days prior
23 really has no effect.

24 A I -- I don't know if I follow your
25 reasoning.

1 Q Okay. If you can't start construction
2 until it's approved, why do you need the timeframe
3 ahead of time? Wouldn't it be the Applicant's
4 risk if he gave it to you, or the Applicant gave
5 it to you without enough time for you to review
6 it?

7 A I -- I assume that would be true, but
8 again, this is an area that the CPM is in charge
9 of, and I would -- I would have to defer to what
10 the CPM considers appropriate in this case.

11 Q And you have rejected the change in
12 language to at least 30 days; correct?

13 A That's right. That's in keeping with --
14 with the -- the CPM's input.

15 MR. GALATI: If I may have a moment
16 before -- before we cross examine -- before we
17 cross examine Ms. Bond, can we have a moment or
18 two?

19 HEARING OFFICER BOUILLON: I'm sorry?

20 MR. GRATTAN: Before we cross examine
21 Ms. Bond, can we have a moment or two? We have no
22 further questions from -- for Ms. Rivasplata. And
23 I don't believe we have any questions of Mr.
24 Sapudar. And Counsel here has had some bad food.

25 HEARING OFFICER BOUILLON: All right.

1 MR. GRATTAN: So if we -- if we can take
2 about five minutes.

3 HEARING OFFICER BOUILLON: If we what?

4 MR. GRATTAN: If we can take five
5 minutes, we'd appreciate it.

6 HEARING OFFICER BOUILLON: Certainly.

7 Let me make one other proposal. It's --

8 PRESIDING MEMBER KEESE: Yeah, let me --
9 let's look at the clock, too.

10 HEARING OFFICER BOUILLON: It's almost
11 5:30, at this point. We were going to break at
12 5:00 o'clock for dinner in any event. I think it
13 might be appropriate, and it would give the
14 Intervenor a little additional time to review
15 what's gone on here today. Tell me what your
16 plane schedule is.

17 MR. SYDNOR: Actually, I can leave in
18 the morning. I can make time this evening to be
19 here.

20 HEARING OFFICER BOUILLON: I -- Mr.
21 Chairman, I suggest we adjourn this meeting and
22 reconvene at 7:00 o'clock.

23 PRESIDING MEMBER KEESE: Okay. That's
24 what we'll do. Back at 7:00 o'clock.

25 (Thereupon a recess was taken.)

1 EVENING SESSION

2 PRESIDING MEMBER KEESE: Back in order.

3 Mr. Bouillon.

4 HEARING OFFICER BOUILLON: All right.

5 Ms. DeCarlo, were you -- had you concluded the
6 presentation of your evidence?

7 MS. DE CARLO: Yes, we were finished
8 with our direct testimony.

9 HEARING OFFICER BOUILLON: Okay. Mr.
10 Galati, do you have cross examination of the
11 Staff's witnesses?

12 MR. GALATI: Yes. I would like to
13 direct cross examination to Ms. Bond.

14 CROSS EXAMINATION

15 BY MR. GALATI:

16 Q Ms. Bond, if you could go to the
17 supplemental testimony filed by Staff on the 22nd,
18 the last page, there is a section, a Proposed
19 Amendment to Soil and Water 7.

20 A Okay.

21 Q We have taken a look at this language
22 and are willing to propose some minor
23 modifications to it for your consideration.

24 During -- during the break -- excuse me.
25 During the break we tried to incorporate the

1 issues in this revision of Soil and Water 7, based
2 on your concerns. So I want to take you back to
3 your testimony when you had said one of the
4 reasons you were concerned, or was using a
5 threshold level of five feet, you brought up the
6 example of a well that might be 20 feet deep, and
7 five feet would be a 25 percent impact to that
8 well.

9 Do you remember that testimony?

10 A First of all, I do need to clarify that
11 this amendment has not been entered into the
12 record as part of my testimony. And I don't
13 intend to submit it.

14 Q Are -- are you retracting -- the portion
15 that says Staff agrees to the following changes,
16 on page 340, and then it says page 348, Soil and
17 Water 7; you're retracting that portion?

18 A The copy I have sitting in front of me
19 does not have a page number on it. Is this page
20 340?

21 Q I'm sorry. It -- at the top of the page
22 it says, the Staff agrees to the following
23 changes. And just for the record, I'm looking at
24 Exhibit 54, Staff's Supplemental Testimony.

25 A I -- I don't have that in front of me.

1 HEARING OFFICER BOUILLON: Do you have a
2 page number on that?

3 MR. GALATI: You know, there's no page
4 numbers on it.

5 THE WITNESS: Where does it say the
6 Staff agrees to --

7 MS. DE CARLO: I apologize. In the rush
8 to get this out on Wednesday I failed to -- to
9 assign page numbers.

10 THE WITNESS: Oh, okay. Here we go.
11 Several changes were proposed by the Applicant.
12 That's what the page starts as?

13 BY MR. GALATI:

14 Q That's correct.

15 A Okay. Now I've got the correct page.
16 Okay.

17 Q Can you look down where it says page
18 348, Soil and Water 7.

19 A Yes.

20 Q Staff proposes the condition be changed
21 to read --

22 A Yes. The first time I saw --

23 Q Is that the --

24 A -- this testimony was about two minutes
25 -- well, maybe five minutes ago, reading it

1 quickly over. This was something that Lisa and I
2 had discussed on the phone, but I had not had a
3 chance to review. And on review, there are --
4 there's some confusion in the wording, and for
5 that reason I don't want to submit this as part of
6 my testimony.

7 Q Understanding that, we -- we made some
8 changes to it that I would like you to consider,
9 that maybe with the changes that are made to it,
10 maybe they will address your concerns as well as
11 ours.

12 A I don't -- is there some way that we can
13 discuss the ideas that you would like to propose
14 without referring to this -- this amendment?

15 Q Sure.

16 A Great.

17 Q We can.

18 A Okay.

19 Q What we would propose -- again, I think
20 this is going to be a lengthy question. The end
21 of the question is going to say, what do you
22 think, or do you agree.

23 A Uh-huh.

24 Q But if you'll bear with me. We would
25 propose that we would compensate groundwater users

1 if their water well is located within a two mile
2 radius, and based on our pump tests there is a
3 prediction that they would -- that their -- the
4 level in their well would decline by 25 percent,
5 and that will require them to either lower their
6 -- lower their well bowls or deepen their wells,
7 we agree to lower the well bowl and we agree to
8 deepen their wells.

9 We also would agree to give the Energy
10 Commission CPM a complete list of all of those
11 potentially impacted groundwater users within 60
12 days after completing our pump test. We will also
13 notify and show proof to the CPM that we have
14 notified all of those well owners, that -- that
15 they maybe have potentially impacted groundwater
16 -- excuse me, may be potentially impacted.

17 We then agree for all of those well
18 owners within a two mile radius that our pump test
19 shows a -- predicts a 25 percent decrease in their
20 water level in their well, and that that require
21 -- and for those wells that requires their well
22 bowl to be lowered or deepened, we will complete
23 those repairs, either deepen the well or lower the
24 well bowl, prior to initiation of commercial
25 operation. And we will show proof to the CPM

1 prior to commercial operation that we have
2 conducted those repairs.

3 So the idea of this proposal was to get
4 out of the monitoring. It was also to address
5 your issue of -- of preventative. It replaced the
6 five feet with the 25 percent that you testified
7 to, and it allows us time to complete the repair
8 work prior to any pumping. Commercial pumping.

9 So, now the question. Do you agree with
10 that?

11 A Sure. Okay, let me -- okay. I do agree
12 to -- I agree that part of that would be
13 acceptable, and part of it wouldn't.

14 Q Which part would not be acceptable?

15 A First of all, you said the 25 percent
16 that I testified to. What are you referring to?

17 Q When -- on -- on direct examination you
18 had mentioned as, by way of example, why you
19 thought five feet was important, and you gave the
20 example of a well, a very shallow residential
21 well, that may only penetrate 20 feet. And that
22 in that case, which I took to mean a lowering --
23 an extreme shallow well, where it only penetrated
24 20 feet, if that were to have a five foot drop in
25 water that would be 25 percent, and you would

1 consider that to be a significant impact.

2 So we were using the 25 percent so as to
3 get out of the five feet where it may not be a
4 five foot well, may not be an impact. So we were
5 trying to address your concern of what you thought
6 was an impact, and we thought you meant 25
7 percent.

8 A I meant the example to be an example,
9 but not a -- a criteria that could be used
10 universally.

11 Q Okay. Let's -- let's go into the
12 criteria, then. Let's go down this road.

13 HEARING OFFICER BOUILLON: Counselor,
14 let me just interrupt you here.

15 It seems to me that you're trying to
16 work out some acceptable conditions with the
17 Staff, which may or may not be acceptable to the
18 Committee as a whole, or to Ms. Garnica, in the
19 second place.

20 And also, I want to advise you both that
21 in fact, these issues -- this specific condition
22 is going to be the subject of briefing by all the
23 parties. And if you can propose a joint -- a
24 joint offering of a condition that is acceptable
25 to both of you after you talk on the phone, or in

1 person, or by letter, without wasting this
2 Committee's time trying to figure out what each
3 other is trying to say, we'll get through this
4 process and we can get to the questions of concern
5 to the community here tonight, and tomorrow
6 morning.

7 So I think the Committee understands
8 what you're trying to do, Mr. Galati, and we're
9 maybe a little less sure about what you're
10 proposing. But through briefing, we will
11 understand better. So I would request that you
12 move on.

13 MR. GALATI: Okay. I'd be happy to.

14 HEARING OFFICER BOUILLON: Before you
15 do, Mr. Galati, do I understand from the Staff
16 that the -- with regard to this page of testimony,
17 that you are not offering the portion that begins
18 with page 348, Soil and Water 7?

19 MS. DE CARLO: Correct.

20 HEARING OFFICER BOUILLON: Okay. And so
21 the rest of that page comes off, then.

22 MR. GALATI: Can I just have a
23 clarification on that? Did you say that the rest
24 of the page -- just starting from 348 down.

25 HEARING OFFICER BOUILLON: That's what I

1 understand.

2 MR. GALATI: Okay.

3 HEARING OFFICER BOUILLON: They're not
4 offering that as testimony at this time.

5 MR. GALATI: I have no further questions
6 at this time for the panel.

7 HEARING OFFICER BOUILLON: Thank you.
8 Do you have any redirect, Ms. DeCarlo?

9 MS. DE CARLO: No, I do not.

10 HEARING OFFICER BOUILLON: Ms Garnica,
11 do you have any questions for the Staff witnesses?

12 MS. GARNICA: Yes.

13 HEARING OFFICER BOUILLON: The ones
14 behind you.

15 MS. GARNICA: Yes, I do.

16 I needed to know, on the -- on page 315

17 --

18 HEARING OFFICER BOUILLON: Ms. Garnica,
19 I'm afraid I'm going to have to ask you to go over
20 to the other side of the table again.

21 MS. GARNICA: On page 315 --

22 HEARING OFFICER BOUILLON: And that's
23 partly so I can hear you.

24 ///

25 ///

1 TESTIMONY OF

2 LINDA BOND

3 called as a witness by Commission Staff, having
4 previously been duly sworn, was examined and
5 testified further as follows:

6 CROSS EXAMINATION

7 BY MS. GARNICA:

8 Q On page 315, it specifies there on the
9 use of groundwater, to where it says that the
10 groundwater levels since 1964 have declined. And
11 then it also mentions that although most farming
12 on the Mesa was discontinued by the early 1990's,
13 groundwater levels have not fully recovered.

14 And I wanted to know -- some of the
15 questions was does -- have anybody, either/or, I
16 guess, because both have done studies, how much
17 acre/feet of water does Mesa Verde actually use?

18 A The Applicant had made an estimate of
19 how much groundwater is used on the Mesa, and I
20 believe it's discussed in the -- the paragraph at
21 the bottom of that page, 315. The estimate
22 provided by the Applicant was that the total
23 agricultural water use in the Mesa -- this is the
24 last sentence on that page -- is about 3,700
25 acre/feet per year. That is the only estimate

1 that we mention in our testimony.

2 MS. GARNICA: But it -- just that it
3 says the Applicant estimates the total
4 agricultural water use. It doesn't say anything
5 about the people that live there.

6 You know, when we're talking about the
7 people in itself, there's -- to be a little bit
8 more accurate, there's like 2,500 people that live
9 up there. And I don't know why -- I don't know
10 why these people, and Staff, I don't know why they
11 came to the conclusion that there's only like 30
12 houses, or something like that.

13 If you go right where the truck, the
14 seven -- Union 76, okay, I think -- I think we
15 pass by the Union 76. Everybody saw the Union 76.
16 When you get off that little freeway, there's a
17 little -- there's a off ramp. You go into that
18 community there, and you're going to see a lot of
19 people and a lot of houses. And according to, you
20 know, both things are incorporated into the study.
21 It doesn't mention about the use of water that the
22 people use. It talks about the agricultural, but
23 there's people that live there. There's quite a
24 bit of people that live there, families. And
25 there's nowhere mentioned in here.

1 Now, if it's not too late, I can submit
2 those declarations from those people that actually
3 live there.

4 PRESIDING MEMBER KEESE: The -- the map
5 that we were looking at earlier had circles at one
6 mile and circles at two miles. Are you suggesting
7 that these people live within that two mile
8 radius?

9 BY MS. GARNICA:

10 Q The impact is going to be within the two
11 mile radius. These people live within the two
12 mile radius.

13 A I'm sorry. The community you're talking
14 about is the Mesa Verde community?

15 Q Yes.

16 A And I believe that it's shown on the
17 map, on Soil and Water Figure 1, following page
18 326. And if I'm correct, it's the large
19 residential and commercial area that's shown west
20 -- southwest of the site, just -- just south of
21 the Hobson Way. And so it's -- it's located about
22 two miles from the project area.

23 Now, when I talked about there being
24 maybe ten houses, I was talking about my very
25 cursory evaluation today, driving along Hobson

1 Way, within just one mile of the project. So I --
2 I was not -- I said that I don't know how many
3 people live within -- within the two mile range.

4 Q Well --

5 A Okay. And you're -- you're saying that
6 most of the people in Mesa Verde live -- excuse
7 me, on the Mesa live in that community?

8 Q Yes. Well, the --

9 A Is that where most of -- most folks
10 live?

11 Q -- the water -- yeah. The water pump
12 is there.

13 A Okay. Okay.

14 Q So there's people there. As -- and
15 we're not talking about the impact of the wells
16 from those people. I need to know now if -- if I
17 need to get -- can I get declaration that there is
18 people there, that their water and how they get
19 their water, where they actually get it from,
20 because there's no mention, nobody has done that
21 yet.

22 And I need to know --

23 PRESIDING MEMBER KEESE: Okay. Let's
24 just -- Mr. Galati, do you want to help us?

25 MR. GALATI: We do have the city

1 engineer here, Rob Holt, who might be able to
2 answer some of those questions about Mesa Verde
3 community. And he's also one of our witnesses on
4 Facility Design. We'd be more than happy to have
5 him come up and answer some of these questions, if
6 possible.

7 PRESIDING MEMBER KEESE: Could you help
8 us out here?

9 MR. HOLT: Yeah. Mesa Verde's been a
10 part of County Service Area 122 for a number of
11 years. And as such, it has its own domestic water
12 distribution system.

13 MR. GALATI: Excuse me, Rob. I
14 apologize. Would it be appropriate to have him
15 sworn in at this time?

16 HEARING OFFICER BOUILLON: I think so.

17 MR. GALATI: Thank you.

18 (Thereupon Rob Holt was, by the
19 reporter, sworn to tell the truth,
20 the whole truth, and nothing but
21 the truth.)

22 MR. HOLT: Yes. Getting back to Mesa
23 Verde has existed as a County Service Area within
24 the County of Riverside for a number of years. I
25 can't remember the exact number of connections,

1 but it's had a distribution system since early
2 seventies, something like that.

3 And I know that there's one domestic
4 well that was located here. There's some water
5 quality problems, and I believe about 15 years ago
6 they drilled another well somewhere down in this
7 area. So they -- they do have two deep water
8 wells that serve that area right now.

9 HEARING OFFICER BOUILLON: So they have
10 like community water wells there?

11 MR. HOLT: They have -- right. It's a
12 community service area, through the County of
13 Riverside.

14 MR. O'BRIEN: Do you know what the
15 population of the area is?

16 MR. HOLT: Right now, off the top of my
17 head, there's probably a hundred plus.

18 MS. GARNICA: Can --

19 PRESIDING MEMBER KEESE: Yes. Why don't
20 you -- hold on a second. Any questions?

21 MS. GARNICA: I want to know if he can
22 submit facts pertaining to his statements.

23 PRESIDING MEMBER KEESE: Well, he --

24 MS. GARNICA: Because I'm saying there's
25 about 2,000 people. He's saying there's only a

1 hundred --

2 PRESIDING MEMBER KEESE: -- he's -- he's
3 given us testimony. You're suggesting there's
4 2500 people in the -- in that --

5 MS. GARNICA: And he's suggesting
6 there's only a hundred.

7 MR. HOLT: I said dwelling units. I
8 didn't say capita. Dwelling units. But yeah, we
9 can provide that. There have been some recent
10 water -- water system studies of the -- of that
11 Mesa Verde water system that are available. I
12 believe a firm in Palm Springs did a report there
13 within the last two years that's been submitted
14 for funding purposes, for possible grant moneys,
15 to the Department of Health Services.

16 HEARING OFFICER BOUILLON: Are those
17 studies readily available?

18 MR. HOLT: Sure. Uh-huh.

19 HEARING OFFICER BOUILLON: I would ask
20 that one be provided to Ms. Garnica as quickly as
21 possible. And one also to the Staff and the
22 Applicant. If we -- and we'll try to figure out a
23 way to include them in these hearings. I don't
24 know exactly how we'll do it at this point, but it
25 seems like it's some valuable information. And if

1 Ms. Garnica is correct that it's a community of
2 some 2,000 -- 2,000 people?

3 MS. GARNICA: Yes.

4 HEARING OFFICER BOUILLON: That's a
5 considerable difference than what we think we've
6 been talking about here.

7 MS. GARNICA: Can -- can I submit a
8 motion to order length of time?

9 HEARING OFFICER BOUILLON: Yeah, that's
10 close enough.

11 MS. GARNICA: Okay.

12 HEARING OFFICER BOUILLON: We will take
13 that under submission and see what information we
14 can come up with tomorrow, even. We'll deal with
15 this issue again tomorrow -- are you going to be
16 here tomorrow?

17 MS. GARNICA: Yes.

18 HEARING OFFICER BOUILLON: Tomorrow
19 morning?

20 MS. GARNICA: Yes.

21 HEARING OFFICER BOUILLON: I wonder if
22 you could go over to the -- the large map we have
23 on the wall there, just so we're all sure we're
24 talking about the same spot. If you can tell me
25 where Mesa Verde is. He's talking about

1 immediately south of the airport.

2 MR. HOLT: There's the airport and the
3 power plant site.

4 The Mesa -- Mesa Drive exit off
5 Interstate 10, if you will, there. There's the
6 Conway Trucking facility right in that location.
7 And the power proposed site is in the black
8 hatched line, right there.

9 MR. O'BRIEN: Does anybody know whether
10 that area, this Mesa Verde area, is within its own
11 census tract, which would be separate and distinct
12 from the census tract covering the City of Blythe?

13 FROM THE AUDIENCE: No. I don't believe
14 -- I don't believe it's a separate census tract.
15 I believe Palo Verde Valley has two census tracts
16 total.

17 HEARING OFFICER BOUILLON: We can't hear
18 that on the record.

19 PUBLIC ADVISER MENDONCA: Roberta
20 Mendonca, the Public Adviser.

21 Right after our first informational
22 hearing I drove out there, and tried to get the
23 names and addresses, talked to a few people, and
24 they hadn't received notice of our hearings. So
25 we, in my office, took down the names of the

1 streets, went to the phone book and looked at the
2 names and addresses, and sent information to those
3 people about our process, and invited them to
4 hearings and workshops, and such.

5 There were 70, I believe, on the mailing
6 list. And I don't know, when I went to the post
7 office and requested the list from the Postmaster,
8 he said he couldn't give me the names and
9 addresses. The Chamber of Commerce couldn't give
10 me the names and addresses. So we did the best we
11 could.

12 They seem to be a part, but they're not
13 a part. That's what I know about it.

14 HEARING OFFICER BOUILLON: Well, I think
15 at this point we'll leave that topic, that part of
16 the topic until tomorrow, and see what information
17 can be provided.

18 You -- you were asking questions of
19 Staff.

20 CROSS EXAMINATION (Resumed)

21 BY MS. GARNICA:

22 Q Yes. That -- that well that was one of
23 the main ones that I had. And it mentioned also
24 on page 315, it talks about the evaluation of
25 specific yield. And it says the primary storage

1 property of an unconfined aquifer. I just didn't
2 understand unconfined aquifer.

3 A Page -- this was -- I'm sorry, what page
4 --

5 Q On 315.

6 A Oh, 315. Okay. Aquifers are -- are
7 generally described -- one way to describe them is
8 confined or unconfined. An unconfined aquifer, a
9 simple kind of description would be like a bathtub
10 full of sand, and you've got the -- the bathtub
11 full of water, you know, and sand. And when you
12 draw water from a well out of that aquifer, what
13 happens is water levels decline at the well.
14 That's called the pumping draw-down. And as you
15 go away from the well, that draw-down becomes less
16 and less. So it forms what's called a cone of
17 depression. If you just imagine like an ice cream
18 cone. And it actually dewateres the aquifer within
19 that cone of depression.

20 The other kind of aquifer is called a
21 confined aquifer, and it operates a little
22 differently. I don't know that you -- I need to
23 go into that, but -- but what an unconfined
24 aquifer does is it actually dewateres within the
25 draw-down kind of depression of each well that

1 pumps. The more well pumps, the larger and deeper
2 the cone is of depression. If it's a -- if it's a
3 very small well just pumping a little bit, the
4 cone of depression might be very tiny, like a
5 draw-down of half a foot. In a very large well,
6 the draw-down might, you know, draw-downs can be
7 50 feet. But I'm not saying anything about this
8 particular project well, but that's how it can
9 range.

10 Q So that means like if there's -- if
11 there's contaminants somewhere up here, and that
12 water is drawing, like you say, it can drag in all
13 those contaminants?

14 A By up there, you mean elsewhere in the
15 water table?

16 Q Let's say other areas around it, yes.

17 A Yeah. If there's -- if there's some
18 sort of contamination in the groundwater system,
19 and it's close enough to the -- to a well that is
20 pumping, that -- that that draw-down is -- is
21 drawing water --

22 Q Drawing it down.

23 A -- toward it, it will cause the
24 contaminants to move.

25 Q So that means that --

1 A If the contaminants are the kind of
2 contaminants that don't stick to the clays or the
3 soil.

4 Q So that means that if there's families
5 that live in a certain area, and this draw-down is
6 wide enough, that means that those people that
7 live in that area can actually get a part of that
8 contaminant that this draw-down has brought in?

9 A Well, it depends on where that family
10 might be. If -- if the -- if the pumping well is
11 here, and the family's here, and the contamination
12 is here, and the draw-down of this well is
13 extensive enough that it starts pulling this water
14 toward the well, yes, it will pull the
15 contamination toward this person. But the person
16 has to be in between the contamination and the
17 well, and the draw-down has to be enough to affect
18 it.

19 Q And how far of that draw-down can that
20 be? How -- how much can it drag from off its area
21 around it?

22 A Well, that's what we are -- we estimated
23 in the -- in our testimony, and the Applicant also
24 estimated. And at this point, all we know is that
25 it's likely to be somewhere within the range of

1 what these -- these estimates are. It won't be
2 until we test the actual well that's put in that
3 we'll have a good idea of how far that -- that
4 cone of depression is.

5 The cone of depression could be fairly
6 small. If the aquifer -- where the project is
7 located, it's right on the edge of where there are
8 subsurface gravels. If the project's well taps
9 into those subsurface gravels, there won't be a
10 lot of draw-down. If it doesn't intersect any of
11 those gravels, then it's more likely to have more
12 of an impact.

13 Q So if the temperature's 124 for a whole
14 month, how much -- has that been speculated, how
15 much of that draw-down we'll be using? It's not
16 108, like it says here.

17 A It -- it depends on -- it does depend on
18 how much you're pumping. During the hotter months
19 the power plant will need more water for cooling.
20 I'd have to defer that question to Rich, because I
21 think he's -- he's more familiar with the power
22 plant's water requirements.

23 But again, until we actually calculate
24 the site, the site's well aquifer behavior, we
25 can't tell you exactly. It would be closer to the

1 maximum pumping rate, and the maximum draw-down
2 that I have in my testimony on page 328, I have a
3 table there, Soil and Water Resource Table 8. If
4 you look at the last two columns. At the top of
5 the column it says, maximum 2,500 gpm, or 4,000
6 acre/feet per year. That's based on what the
7 project's estimated maximum requirement is, the
8 maximum that they would be pumping during those
9 really hot months. So the draw-down estimated
10 there that I have is -- is based on the two pieces
11 of information that I have, that I, you know, the
12 best estimate I have at the moment.

13 Q And that's presuming that there is no --
14 that there are no -- no people using that water,
15 right, at -- during those heated days, also.

16 A No. What this is -- what this estimate
17 is, is what the -- what the effect of the project
18 would be. So wherever -- if there's somebody, you
19 know, a half a mile away, or this person
20 presumably who lives in this house that's 3,465
21 feet away, if when they pump the water levels in
22 their well go down, say, three feet, the project
23 will cause their water -- instead of pumping, say,
24 from this level, it goes down this much, they'll
25 be starting at a lower level. It still would just

1 go down there three feet, but that'll be
2 subtracted off the draw-down that will exist
3 because of the project.

4 Q Then it just keeps bringing it back to
5 the word "impact", that the impact that it will
6 make on -- on the community of that area -- excuse
7 me -- and which nobody has really taken in
8 account, evidently, here. And, you know, because
9 even if you talk of five families, you know, even
10 if you mention small numbers that it will make an
11 impact on them, it's still a family, and you will
12 still make an impact on those people.

13 So, you know, we're talking about the --
14 a draw-down, and it's all on -- everything's
15 hypothetical. And, you know, although I guess
16 both sides have done studies, but I think we've
17 overlooked the major impact that we will make, you
18 know. Here we're -- we're trying to get energy
19 going, but at the same time we're going to
20 sacrifice families that, you know, and -- because
21 all this is done on speculation. All these -- all
22 this paperwork is on speculation, and it's -- it's
23 -- there's -- it's going to be a large impact, I
24 think that.

25 And I don't see, I don't understand, is

1 -- is how we can, you know, make plans if not all
2 the -- not all the assessments are here because,
3 yeah, we didn't know that there were people up
4 there.

5 A Well, going back to this table on -- on
6 page 328. I know it's a lot of numbers, but let
7 me see if I can point out a couple of things that
8 might answer some of your questions.

9 That very last column that -- it's
10 headed up with BEP Maximum, 2,500 gpm. Okay.
11 That -- that is meant to represent, as best as we
12 understand, what the maximum pumping rate of the
13 plant would be during the summers. Okay.

14 If you look at the very first column, it
15 lists number of feet, and the last number in that
16 column, 10,560 feet, that's the same thing as two
17 miles, the 10,000 feet.

18 Q Uh-huh.

19 A So that would be the distance that Mesa
20 Verde is from -- approximately from the project
21 site. So if you go back over, you follow that
22 10,560 feet across the row to the end, there's two
23 numbers there. There's 9.5 and 3.5. Based on the
24 best information I had, the draw-down to wells in
25 that area would be at most nine and a half feet,

1 and at the least, 3.5 feet, during the maximum
2 pumping period.

3 Q And that's if it hits that rich area
4 right before that -- the base of the Mesa; is that
5 correct?

6 A Yeah. The number, three and a half
7 feet, that would be if -- if they've got -- they
8 hit a real productive zone with the well. If they
9 only -- if the well goes down and they only
10 encounter sands and clays, then the draw-down is
11 going to be more likely to be more like nine and a
12 half feet. So I do -- I did attempt to cover the
13 range. I didn't want to just give you an average,
14 because sort of who cares what the average is.
15 You want to know what the -- the best case is, and
16 the worst case, so you have some sense of where
17 your boundaries are.

18 So this was Staff's effort to take into
19 account folks that were living relatively near the
20 site. And the Applicant did similar calculations,
21 although in their original submittal there were
22 problems with the -- with the permeability values
23 they used, so they underestimated. But they've
24 redone that now, and -- anyway.

25 But this is my testimony.

1 MS. GARNICA: I guess it's -- I can't
2 ask them the question, can I?

3 PRESIDING MEMBER KEESE: You're really
4 here now, but --

5 MS. GARNICA: Okay, I know. I know.
6 And I don't want to --

7 HEARING OFFICER BOUILLON: When you
8 finish with them, I'm going to -- I'm going to let
9 you ask them some more questions.

10 MS. GARNICA: That's -- that's because
11 they had said that the --

12 HEARING OFFICER BOUILLON: Are you done
13 with these people now?

14 MS. GARNICA: Yes. I have no further
15 for them.

16 HEARING OFFICER BOUILLON: Before you
17 ask these questions, do you have any redirect?

18 MS. DE CARLO: Yes, I have a couple.

19 REDIRECT EXAMINATION

20 BY MS. DE CARLO:

21 Q If there are more people living on the
22 Mesa than you had originally accounted for, would
23 that change your analysis?

24 A It doesn't really change my analysis
25 because my analysis looked at what the impacts

1 would be to the groundwater system. I did not, in
2 my testimony, specify how many people would be
3 impacted. So it wouldn't change my analysis. No.
4 There might be more people to be compensated than
5 what we talked about today, but --

6 Q And would Soil and Water 7, as set forth
7 in the FSA, mitigate for those potential impacts
8 to well users on the Mesa?

9 A Yes, it would.

10 MS. DE CARLO: No further questions.

11 HEARING OFFICER BOUILLON: Ms. Garnica,
12 do you have some questions for the Applicant's
13 witnesses now?

14 MS. GARNICA: Yes, I do. I guess I have
15 to get on this side.

16 Okay. Still pertaining to page 315.
17 I'm sorry. Okay.

18 The water that has not fully recovered,
19 this is where it says -- okay, the question states
20 that -- well, it's asking -- what happens if the
21 water has not fully recovered, what happens to the
22 supply of wells after they experience a decline in
23 the groundwater levels during the life of the
24 plant?

25 MR. SYDNOR: If I can answer that. The

1 -- with respect to the groundwater levels that
2 have not fully recovered, what happened was back
3 in the 1970's, up on the Mesa there was a lot of
4 agriculture. If you remember, there were a lot of
5 farms and things like that. And they drew, we
6 estimated 17,000 acre/feet per year from the
7 aquifer at that time. And when they did that,
8 that caused the water level to go down.

9 Now, we don't think that it's quite
10 fully came back to the levels that it was at
11 before. So that is what we're talking about when
12 we say they haven't fully recovered. They used a
13 lot of water back then, and it hasn't quite come
14 back.

15 Now, with respect to what we're talking
16 about as far as the wells up on the Mesa, we were
17 planning to monitor and then mitigate these wells
18 and make sure that we keep continuous supply of
19 water for you, in case the water level decreases
20 in your well. And I think we're all going towards
21 that point right now. That's where we want to be
22 at.

23 MS. GARNICA: So if the water hasn't
24 been up to the way it was before, that means it
25 will never get -- go back up, because you're going

1 to draw from that.

2 MR. SYDNOR: Actually, in our
3 projections, it showed that it was going to
4 continue to go up. They had utilized so much
5 water back then, it was 17,000 acre/feet, and
6 we're planning on using 3,000 acre/feet. So
7 basically, they were using six times as much water
8 as we -- as we've proposed to, and it's recovering
9 now. And we -- our use of water from our regional
10 model showed that the water level's going to
11 continue to go up with our use, and the uses that
12 are accounted for up in the Mesa right now.

13 Now, at a greater level, say where they
14 were back then at 17,000, that may not occur. I
15 don't think it would. But at our level, it shows
16 that it continues to rise.

17 MS. GARNICA: So that means that -- you
18 know, the population is growing in Blythe. So
19 there's more people here than there was -- now
20 than there was before. So that means that there's
21 more people using water, and added to the plant,
22 the proposed plant, will also use that water. So
23 with all that you've calculated of the growth of
24 Blythe, and the plant, has all that been added
25 into -- in conclusion to -- added to your -- the

1 amount of water level coming back up in that --

2 MR. SYDNOR: I see what you're saying.

3 We actually looked at -- we didn't look at the
4 growth in Blythe itself. We looked at the growth
5 -- we -- we didn't look at the growth in Blythe
6 because Blythe has its own separate water system,
7 and it has water that's run down through the
8 canals and laterals that keep the water level
9 about the same down here in the valley, and keeps
10 it with the Colorado River.

11 What we looked at was we looked at the
12 current usage up on the Mesa, and we used that in
13 our projections, because we didn't know, or at
14 least I didn't know what growth would be projected
15 for the Mesa.

16 MS. GARNICA: Well, you know, Blythe
17 just annexed going down that way, so there's a lot
18 of potential growth for Mesa. I mean, if the
19 annexation is moving on down that way, then it's
20 going to move -- it's going to -- Mesa Verde is
21 the next plan to be annexed. I mean, it's moving
22 down that way. So that means there's water, the
23 water -- the water's going to be there. We need
24 water to be there. People are there.

25 So what I'm trying to say is the decline

1 -- the decline of water, is it going to be made
2 up?

3 MR. SYDNOR: I don't --

4 MS. GARNICA: Because you're going to
5 take it away.

6 MR. SYDNOR: -- I don't quite understand
7 your question.

8 MS. GARNICA: That's why -- I know you
9 can't understand it, because it's going to be
10 taken away.

11 HEARING OFFICER BOUILLON: Ms. Garnica,
12 please give him a chance to answer the question.
13 And as I understand your question is, is the water
14 table going to come up to where it was before the
15 intensive farming drew it down in the seventies
16 and eighties. Is that correct?

17 MS. GARNICA: Yes.

18 MR. SYDNOR: Yeah. Our projection was,
19 in the regional modeling, is that it would
20 eventually come back. Based upon our pumping and
21 the current pumping that's occurring on the Mesa.

22 MS. GARNICA: With the growth.

23 MR. SYDNOR: That doesn't account for
24 growth. No.

25 MS. GARNICA: So that means that Blythe

1 cannot grow down that way, because you're using
2 that water, and that water's already allocated for
3 you only, for the Blythe plant only.

4 MR. SYDNOR: No, it doesn't mean that.
5 I mean, certainly the -- the city could
6 potentially, if they annex the property, put
7 everyone on city water up there. I -- I don't
8 know about that. There's -- there's a lot of
9 different options rather than just using wells to
10 supply water up in that -- in the Mesa.

11 MS. GARNICA: But it wouldn't be able to
12 be within the two mile radius.

13 DR. HARVEY: It would. If I could
14 explain.

15 MS. GARNICA: Okay.

16 DR. HARVEY: It would. The two mile
17 radius is the area of potential draw-down of
18 groundwater from this project that then, if that
19 occurs, would require wells to be deepened. It
20 doesn't mean that they would run out of water. It
21 means that their existing wells would have to be
22 put deeper so they could draw from lower in the
23 water table.

24 And that projection is, by the CEC
25 Staff's assessment, somewhere between nine feet

1 maximum and three and a half feet, somewhere in
2 that range. And that's what would have to be --
3 that's what we were talking about in terms of
4 having to put the wells deeper, so that they would
5 be able to draw water without having their wells
6 impaired.

7 And the -- you mentioned about the Mesa
8 Verde being annexed. That's an existing use of
9 water. That's already accounted for in the -- in
10 the regional groundwater modeling that was done
11 for the project.

12 And the -- the recovery of the
13 groundwater will be slower than it would be
14 without this project, or without any other new
15 users. But it will not stop the recovery. It
16 will simply not be as -- as rapid as it would be
17 without additional demands on the groundwater from
18 this project, and from other growth that would
19 occur in the region.

20 MS. GARNICA: So it would be less -- you
21 said it was not going to be rapid? I'm sorry.

22 DR. HARVEY: Right now, groundwater is
23 recovering at -- at a rate.

24 MS. GARNICA: At a certain rate. Yes.

25 DR. HARVEY: Right. And that recovery

1 will be slowed down. It won't be stopped as a
2 result of this project. So you will still have
3 recovery, and there will still be water to be
4 drawn.

5 MS. GARNICA: Has that been -- how slow
6 -- that recovery is slow, or how -- how recovery
7 --

8 DR. HARVEY: It's a matter of years,
9 yes. Yes, it's a matter of -- it's --

10 MR. SYDNOR: If I can elaborate a little
11 bit. When we're talking about pumping these wells
12 and we're talking about draw-downs, we're talking
13 about over years. Even the -- in the CEC Final
14 Staff Assessment, they said that it would possibly
15 draw down nine feet. Well, that's over 40 years
16 of time. So if you look at that, that's quite a
17 bit of time.

18 MS. GARNICA: So that means it's going
19 to be slower yet, right?

20 MR. SYDNOR: Well, over the time, both
21 the draw-downs and the recoveries are slow, yes.
22 This is not something that happens overnight. Or
23 within a matter of minutes or hours. This is
24 something that happens over years.

25 DR. HARVEY: I'm not sure how the city's

1 analysis was done, but another -- another point to
2 make is that the city uses -- the city's water use
3 means that it could grow by a factor of five times
4 before it would reach the water use that occurred
5 on the Mesa in the seventies -- in the seventies
6 and eighties, at 17,000 acre/feet per year.

7 The city uses a total -- and we can have
8 Butch Hull or somebody confirm this, but a total
9 of around 3,000, 3500 acre/feet per year water.
10 And to reach that 17,000 acre/foot level, relying
11 only on Mesa groundwater for water supply, which
12 the city relies upon valley groundwater, Mesa
13 groundwater, Mesa users rely upon some surface
14 water brought up, especially agricultural users,
15 brought up from Palo Verde surface sources well.

16 So it would have to be tremendous growth
17 of the city before you would get to the levels of
18 the agricultural pumping of the seventies and
19 eighties. A fivefold increase.

20 MS. GARNICA: And then -- that wouldn't
21 be able to happen, though, huh. Because you guys
22 will own that water.

23 MR. SYDNOR: No. The city --

24 MS. GARNICA: That part.

25 MR. SYDNOR: -- the city takes their

1 water from down here in the valley. And the
2 valley has a higher hydraulic conductivity, and
3 the wells are down here. There's also a system of
4 canals and drains here that tends to keep the
5 water level about the same, and it controls it
6 according to that.

7 So this water level in the city, that
8 they're pumping here in the city, is not really
9 impacting up on the Mesa.

10 MS. GARNICA: I know, because my main
11 concern is the families on the Mesa.

12 DR. HARVEY: And that is a concern that
13 we have shared, and that the CEC Staff shares,
14 which is why we are working on -- no one's talking
15 about not monitoring wells or -- or ensuring that
16 we keep those wells whole and productive. It's
17 only a question of the details of what that looks
18 like. But there's every intention that -- that --
19 to the extent the wells are drawn down in a way
20 that affects their operation and supply of water
21 to any existing user, that that will be remedied.
22 The well will be deepened, the bowl will be -- the
23 pump will be replaced. Whatever it takes to keep
24 those wells productive.

25 (Inaudible asides.)

1 MS. GARNICA: So if there's a -- if
2 there is a private well, let's say, that's a
3 little bit more than the -- excuse me -- a little
4 bit more than the two miles from the plant, if
5 they draw from the same aquifer, would they be
6 negatively impacted?

7 DR. HARVEY: All the analyses that have
8 been conducted, the Staff's and ours, indicate
9 that they would not be. I believe that's why
10 Staff -- you can ask Staff to clarify this, but I
11 believe that's why Staff came up with the two mile
12 zone, was they felt that was the reasonable zone
13 beyond which they weren't anticipating effects.

14 MS. GARNICA: But both of you are on
15 speculation.

16 DR. HARVEY: Well, speculation is a --
17 is a hard term. There's a lot of science that
18 goes into -- and there's a pretty good
19 understanding of how groundwater rights work, and
20 others -- there are -- there is very specific data
21 for this groundwater body, and for wells and how
22 that has acted in the past, how that system has
23 acted in the past, that is the basis of the
24 analysis.

25 But you're right, it's not set in stone,

1 and that's why we are proposing, and Staff has --
2 has proposed, that we do some pump tests at the
3 beginning and define that area of impact, and
4 define the -- the mitigation needs, based upon
5 actual pump tests at this site. Rather than using
6 simply the analysis using past data.

7 MS. GARNICA: Okay. So that means that
8 you would have to establish the plant first.

9 DR. HARVEY: No, that we'd have to put
10 the wells in and test the wells, and pump the --

11 MS. GARNICA: And then that's how it
12 would work first.

13 DR. HARVEY: -- and -- right.

14 MS. GARNICA: That's what you would do
15 first.

16 DR. HARVEY: Right. It's a site
17 specific test of the actual wells that would be
18 put in for the plant. And it would be all the
19 mitigation requirement is prior to going into
20 commercial operation, that the area wells that
21 could be impacted by those -- by that analysis, by
22 those criteria, would have been repaired, would've
23 been deepened or -- or new bowls or pumps.

24 MS. GARNICA: So that means that -- that
25 you have to get -- what do you call -- you have to

1 be certified first, the application -- I don't
2 know the correct term. But that means that --
3 that the Commission would have to accept your
4 application first, and -- before you can try those
5 wells, or, you know, before you can install that,
6 and before you put the -- the plant up?

7 DR. HARVEY: That's correct. And based
8 upon the scientific evidence that's available now,
9 that we have a pretty good understanding of what
10 the potential range of effects are, and that we
11 then do the site specific pump tests to confirm
12 that and to mitigate for that.

13 MS. GARNICA: Okay. So all that's done
14 first, before -- because I'm saying that's --
15 because then it's hard to, let's say that
16 something goes wrong, you know. It's all
17 speculation. So let's say something goes wrong.

18 HEARING OFFICER BOUILLON: Ms. Garnica,
19 I have to ask you to ask questions, okay?

20 MS. GARNICA: Well, that's -- I wanted
21 to know if -- if there's going to be --

22 PRESIDING MEMBER KEESE: Let me -- what
23 we've heard --

24 MS. GARNICA: Okay.

25 PRESIDING MEMBER KEESE: -- from the

1 Staff, who are representing the public, and the
2 Applicant, is -- well, they have two different
3 theories here. They're going to work together on
4 it. But in each case, any impact on the water
5 supply is going to be mitigated.

6 MS. GARNICA: Oh, okay. Yeah, I was
7 just --

8 PRESIDING MEMBER KEESE: Any impact on
9 the water supply --

10 MS. GARNICA: I'm just afraid that --

11 PRESIDING MEMBER KEESE: -- is going to
12 be mitigated.

13 MS. GARNICA: -- you know, I don't know
14 this process, and I don't know the --

15 PRESIDING MEMBER KEESE: Right. That's
16 why I'm trying to --

17 MS. GARNICA: -- interjections --

18 PRESIDING MEMBER KEESE: -- focus here.
19 They have a plan for mitigation. They have a plan
20 for mitigation. They're going to get together --

21 HEARING OFFICER BOUILLON: Hopefully.

22 PRESIDING MEMBER KEESE: -- and either
23 they're both going to submit a plan, and you can
24 submit a plan, or they're going to come to an
25 agreement on a plan and submit it to us jointly.

1 But in both cases, everybody here says they're
2 going to fully mitigate.

3 MS. GARNICA: Okay. That answers my
4 questions.

5 HEARING OFFICER BOUILLON: All right.
6 Now, Mr. Galati, would you -- do you have any
7 redirect, first?

8 MR. GALATI: I don't need any redirect
9 after -- after Commissioner Keese's comments.

10 HEARING OFFICER BOUILLON: Would you
11 like to introduce -- move your documents into
12 evidence at this time?

13 MR. GALATI: Absolutely. And bear with
14 me, I have several of them.

15 HEARING OFFICER BOUILLON: Let me find
16 my exhibit list here.

17 MR. GALATI: I would like to move in
18 Exhibit Number 24 through 41. That starts on page
19 five.

20 HEARING OFFICER BOUILLON: Twenty-four,
21 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36,
22 37, 38, 39, 40, and 41?

23 MR. GALATI: That's -- that's the first
24 set. And I would like to move in Exhibit 43.

25 HEARING OFFICER BOUILLON: Forty-three?

1 MR. GALATI: Correct. Fifty through 52.
2 And also Exhibits 50, 51, and 52. And since 52
3 deals with the Supplemental Testimony of Marc
4 Sydnor, if I could also follow that up with a
5 question of whether Ms. Garnica has additional
6 questions for Marc Sydnor to require his
7 attendance tomorrow.

8 HEARING OFFICER BOUILLON: Well, I think
9 she's asked the questions she wanted on that.

10 MS. GARNICA: Yeah, I have.

11 MR. GALATI: So he can be excused when
12 we're done with Water?

13 HEARING OFFICER BOUILLON: All right.
14 That -- are you done?

15 MR. GALATI: That's all the exhibits on
16 Water and Land Use.

17 HEARING OFFICER BOUILLON: Any objection
18 to admission of those exhibits?

19 MS. DE CARLO: No objection.

20 HEARING OFFICER BOUILLON: Ms. Garnica,
21 do you have any objection to them having their
22 testimony in?

23 Okay. They will be admitted into
24 evidence.

25 ///

1 (Thereupon Exhibits Numbers 24, 25, 26,
2 27, 28, 29, 30, 31, 32, 33, 34, 35, 36,
3 37, 38, 39, 40, 41, 43, 50, 51, and 52
4 were received into evidence.)

5 HEARING OFFICER BOUILLON: Ms. DeCarlo,
6 how about you, do you have some testimony and
7 exhibits to move in from these witnesses?

8 MS. DE CARLO: I believe we'll move in
9 the testimony at the end of -- of the hearings,
10 the FSA and supplemental.

11 HEARING OFFICER BOUILLON: All right.
12 Do you have any -- all right.

13 At this point, I think we can excuse
14 these witnesses, at least temporarily, and we have
15 several areas that we were going to try and cover
16 this evening. Specifically, Socioeconomics,
17 Public Health, Alternatives, Design, Hazardous
18 Materials, and Air Quality. And we were going to
19 call those witnesses, have them sworn, and ask Ms.
20 Garnica if she has any questions for any of them
21 about any of those topics.

22 It's my understanding that their
23 testimony will come in by way of stipulation, and
24 when we have time to take it. But it has already
25 been filed.

1 So if you would bring your people up,
2 Mr. Galati, and you would bring your people up,
3 Ms. DeCarlo, and then we'll introduce them.

4 MR. GALATI: You bet. And at the end of
5 that testimony there are some additional exhibits
6 that go with each of those declarations and
7 testimony. I'll just move them in at that time,
8 as well.

9 (Inaudible asides.)

10 MR. GALATI: I'd like to introduce who
11 the witnesses are, and what their particular area
12 that they prepared testimony on, so if there's any
13 questions directed to that area you know the face,
14 and then have them each sworn.

15 For Facility Design, Power Plant
16 Reliability, Power Plant Efficiency, but for
17 Facility Design purposes, Rob Muehlenkamp and Rob
18 Holt. If they could please be sworn. Or I guess
19 we could swear them all in at the end.

20 HEARING OFFICER BOUILLON: I'm sorry.
21 What was the second name?

22 MR. GALATI: Also -- Rob Muehlenkamp.
23 His spelling is on page 1, under the section of
24 Facility Design.

25 HEARING OFFICER BOUILLON: And?

1 MR. GALATI: Rob Holt, H-o-l-t.

2 Muehlenkamp is M-u-e-h-l-e-n-k-a-m-p.

3 I also have Herm Tellez, who is an
4 additional added witness at this point, because he
5 works for Marmac, and has specific knowledge of
6 the pipeline design and construction. And that
7 name, the last name is spelled T-e-l-l-e-z.

8 We also have Joel Reisman, R-e-i-s-m-a-
9 n, from Greystone Environmental, and he worked on
10 the Air Quality section.

11 And we also have Gordon Frisbie, also --
12 that is F-r-i-s-b-i-e, and Gordon worked on Air
13 Quality, as well as the modeling analysis for
14 Public Health.

15 We also have Leon Crain, C-r-a-i-n, from
16 Greystone Environmental, as well. And Leon worked
17 on the portion of Public Health that deals with
18 personal impacts, and hazard and disease, and
19 those kinds of calculations, as well as Leon will
20 also be testifying on Hazardous Materials
21 Management.

22 And then we have Jeffrey Harvey, who
23 would be addressing any issues of Socioeconomics.
24 Jeff harvey will also address any issues on
25 Project Alternatives, should they come up in this

1 discussion, as will Tom Cameron, on Project
2 Alternatives.

3 So I would guess -- I would ask for all
4 those people to be sworn in.

5 (Thereupon Rob Muehlenkamp, Rob Holt,
6 Hermilo Tellez, Jeffrey Reisman,
7 Gordon Frisbie, Jeffrey Harvey, Leon
8 Crain, and Tom Cameron were, by the
9 reporter, sworn to tell the truth, the
10 whole truth, and nothing but the truth.)

11 HEARING OFFICER BOUILLON: And I would
12 caution each of you, before you begin to answer
13 any question, that you find a microphone on which
14 you can both be heard and recorded.

15 Ms. Garnica, looking at what I think we
16 had agreed on about what your areas of questioning
17 were, you had questions about the weather, the
18 depletion of the valley water, and I think we've
19 already covered all the water questions. And the
20 reduction of agricultural production and
21 environmental safety.

22 So if you have any questions that --
23 that you think might apply to any of them, I'm not
24 going to make you address any specific person, but
25 if you have a question for any of these witnesses,

1 you give them the question and let them decide who
2 can answer it best. Okay?

3 MS. GARNICA: This is on the pipeline.
4 The pipeline is going on the south side; that is
5 correct? The south side of the freeway?

6 MR. GALATI: Rob, can you go show on the
7 map, maybe, where the pipeline is going, as well
8 as there is a map in the -- I believe in the Final
9 Staff Assessment.

10 MR. HOLT: Okay. The pipeline is going
11 to begin, and it's shown here in yellow, a --

12 PRESIDING MEMBER KEESE: Is this working
13 or not?

14 MR. HOLT: I'll just point, while you --

15 MR. GALATI: Maybe at the podium would
16 work.

17 MR. HOLT: Okay. The pipeline --

18 HEARING OFFICER BOUILLON: And for the
19 record, identify yourself.

20 MR. HOLT: Okay. Robert Holt.

21 Okay. The pipeline will commence at the
22 El Paso facility, which is just south of
23 Interstate 10 on the Arizona side of the Colorado
24 River. The project is proposing to do a
25 directional drill about 1300 feet long that will

1 go underneath the river and come up on the
2 California side of the river, and a dedicated
3 street right-of-way within the City of Blythe,
4 called Riviera Drive.

5 The pipeline then proceeds westerly
6 along the south side of Interstate 10, down to
7 Intake Boulevard. Again, all this pipeline
8 section will be within the City of Blythe within
9 existing dedicated street right-of-way.

10 It will then turn and go to the south,
11 along Intake Boulevard down to 16th Avenue. As
12 you can see, when it gets down into 16th there,
13 it's in areas of agricultural, currently
14 agricultural operations.

15 The pipeline then proceeds westerly in a
16 straight line. At a certain point it will exit
17 the City of Blythe and enter into the County of
18 Riverside right-of-way, and proceed westerly to
19 Arrowhead Boulevard, at which point it will turn
20 north, proceed up Arrowhead Boulevard past the
21 Southern Cal Gas compressor facility. It will be
22 jacked and bored under Interstate 10 to Hobson
23 Way, at which point it will turn and proceed to
24 the west again. We're back in the city limits at
25 this point, and it will proceed westerly on Hobson

1 Way out to the Blythe Energy Project site.

2 It will proceed northerly approximately
3 15 feet inside the west property line, and proceed
4 up to the power island, which encompasses the
5 northerly 15 acres of the 76 acre Blythe Energy
6 Project site.

7 MR. GALATI: How about the other
8 pipeline?

9 MR. HOLT: Okay. The alternative
10 pipeline, I think you can see on the aerial photo
11 there, there is a 30 and 36 inch gas line to the
12 south of Interstate 10. You can still see the
13 open areas there through the citrus. The other
14 alternative pipeline route would tie into the 30
15 inch -- 30 or 36 inch line and proceed northerly
16 underneath Interstate 10, underneath Hobson Way,
17 and enter the project site.

18 Those are the two pipeline route
19 alternatives.

20 MS. GARNICA: Is it at all -- I can read
21 my questions the way I have them written, right?
22 Instead of just -- okay.

23 PRESIDING MEMBER KEESE: Certainly.

24 MS. GARNICA: Okay. In BEP's testimony
25 of the objectives, it was to construct and operate

1 a power plant in the Blythe area that provides
2 economic, reliable, and environmentally sound
3 electrical energy to the deregulated industry.

4 Okay. And the second objective is to be
5 online in time to assist in alleviating
6 potentially serious electricity shortages facing
7 the State of California during the third quarter
8 of 2002. Okay.

9 In the FSA stated objective for the BEP,
10 it states that the construction and operating of
11 merchant power plant in the Blythe area that
12 supplies economic or reliable and environmental
13 sound electricity energy in the restructured power
14 market -- okay.

15 The question is, what guarantee does the
16 California electric consumer have that BEP will
17 provide economical, reliable, and environmental
18 sound electricity energy in the restructured power
19 market?

20 MR. GALATI: I think we might have
21 several people answer that question. There are
22 several parts to it.

23 I would like to have Mr. Bob Looper
24 sworn.

25 ///

1 (Thereupon Robert Looper was, by the
2 reporter, sworn to tell the truth, the
3 whole truth, and nothing but the truth.)

4 MR. LOOPER: My name is Robert Looper.

5 Is that all I need to say? No address.

6 The question -- do you want to break
7 that down, Carmela, for me, a little bit? There
8 were several pieces to it. You had a string of
9 adjectives there. Just take them one at a time.

10 MS. GARNICA: Well, just the guarantee.
11 What guarantee does California electric consumers
12 have that the BEP will provide economic, reliable,
13 and environmentally sound electrical energy in the
14 restructured power market?

15 MR. LOOPER: I'm not certain that I can
16 put this in the form of a guarantee, but the
17 project, and Tom went through the Project
18 Description, the project is -- is basically a
19 state of the art natural gas-fired facility, using
20 state of the art technology in all areas of air
21 quality and water use, and all the functions that
22 make up the other eight electricity end of the
23 markets.

24 And so because of that, it's going to be
25 the most environmentally friendly plant. It's

1 going to be very cost competitive, because it's
2 using state of the art technology. And -- and
3 that, in that form is, I guess, the guarantee, in
4 the fact of how we're approaching the project
5 development and how we're delivering the project
6 for Blythe, for the State of California, for the
7 region.

8 MS. GARNICA: So that means that if your
9 -- is the pipeline -- isn't it going to connect to
10 another pipeline that's already existing in
11 Blythe?

12 MR. LOOPER: Yes.

13 MS. GARNICA: And what is the name of
14 the -- that pipe, is it the --

15 MR. LOOPER: Well, there's two
16 alternatives --

17 MS. GARNICA: -- Southern California --

18 MR. LOOPER: There's two options that
19 were discussed.

20 MS. GARNICA: Okay. The Southern
21 California?

22 MR. LOOPER: One is El Paso, and that
23 was on the river. And the other is Southern
24 California Gas Company.

25 MS. GARNICA: Okay. Is not the pipeline

1 that belongs to Southern California the 50 year
2 old pipeline?

3 MR. LOOPER: There's two pipelines
4 there. They're of different age. There's one's a
5 30, and one's a 36 inch, but one's -- one's very
6 old, one's 50, and one's -- one's a little newer.

7 MS. GARNICA: Which one would it be that
8 you would connect onto?

9 MR. LOOPER: For Alternative 2? I'm
10 going to defer that over to our design -- that's a
11 question for Rob, specifically, on the pipeline, I
12 think.

13 MR. MUEHLENKAMP: Rob Muehlenkamp.

14 We have not had final discussions with
15 SoCalEdison as to which -- or SoCalGas, as to
16 which pipeline, or both, that would be connected
17 into. So we do not have an answer as to, you
18 know, exactly which one, or both, potentially, it
19 could be connected to for that pipeline.

20 MS. GARNICA: So if you're going to hook
21 on to another company's pipeline, wouldn't you
22 make an agreement first with them, to see if --
23 how -- how does -- how do you do that? You just
24 connect into their pipeline without you having to
25 say any say-so on it?

1 MR. MUEHLENKAMP: Well, we would try to
2 work on a contract with them. And, of course,
3 we'd come to a mutually agreeable contract as to
4 how that connection is made.

5 MS. GARNICA: Okay. So if that pipe is
6 50 years old, then wouldn't you have a say-so as
7 to the stability and the inspection of the
8 previous -- I mean, of that pipeline previously?
9 Or would you just connect to a -- would you just
10 connect -- or would you just buy something that
11 you don't know what the quality is of it?

12 MR. MUEHLENKAMP: Yeah. I mean,
13 obviously we want to connect to a good supply of
14 gas. And the integrity of that pipeline is
15 something that we don't have control of.
16 Obviously, that'd be a consideration, is that, you
17 know, what's the integrity of the pipeline, but we
18 don't have control of that pipeline.

19 MS. GARNICA: So that pipeline would not
20 be the state of the art pipeline you are
21 connecting to?

22 MR. MUEHLENKAMP: We have no control
23 over that pipeline.

24 MS. GARNICA: So then this, then, the
25 statement -- then the -- I guess that falls under

1 the guarantee that it will not be state of the art
2 --

3 MR. MUEHLENKAMP: Well, our --

4 MS. GARNICA: -- as he had said, because
5 if that pipe is 50 years old, that is not state of
6 the art equipment.

7 MR. MUEHLENKAMP: No.

8 HEARING OFFICER BOUILLON: Ms. Garnica
9 --

10 MR. MUEHLENKAMP: That is --

11 HEARING OFFICER BOUILLON: -- ask him a
12 question.

13 MS. GARNICA: Well, yeah, that was the
14 one on how are they going to know -- I mean, if
15 this company has any say-so into what they are
16 going to connect to.

17 MR. MUEHLENKAMP: Yeah. When we said
18 the pipeline was state of the art, we mean our
19 pipeline will be state of the art. That pipeline
20 is there now. It'll be there for the future.

21 MS. GARNICA: Okay. So --

22 MR. MUEHLENKAMP: Our pipeline will not
23 change the existing pipeline.

24 MS. GARNICA: So if that pipeline goes,
25 the 50 year old pipeline goes, and you're tied

1 into it, whose liability is it?

2 MR. MUEHLENKAMP: It's still their
3 pipeline. We don't have any say or -- any
4 responsibility for their pipeline.

5 MS. GARNICA: Okay. So in all -- then I
6 can say that the BEP is proposing to connect to
7 the Southern California Gas 50 year old gas
8 pipeline that is running under an Appleby
9 elementary school for -- with its high pressure
10 natural gas supply. Then --

11 MR. MUEHLENKAMP: Yeah. We will not be
12 changing their -- their pipeline.

13 MS. GARNICA: And you have no power over
14 that.

15 MR. MUEHLENKAMP: We have a number of
16 options, you know. It's just one of the options.
17 How we connect into that pipeline, you know,
18 hasn't been finalized. But whether we connect
19 into that pipeline or a different pipeline, that
20 pipeline will still be there unless SoCalGas takes
21 it out of service.

22 MS. GARNICA: So if Southern Cal can
23 take that out of service, then that means that you
24 will still get your -- your supply of gas; right?
25 Let's say that that were to happen. Let's say

1 that the pipe were to be capped off at the
2 beginning of town, and at the end of town, so that
3 it can avoid any potential dangers, or
4 catastrophes. Then that means that if you
5 connected to where they shut off, where they
6 capped, and you continued your route, and you
7 picked up where the other cap was off, you could
8 do that? You're still connected.

9 MR. MUEHLENKAMP: I guess I'm not -- I
10 don't understand the question. You're saying if
11 they took their pipe out of service? I mean, we
12 get to find alternate sources.

13 MS. GARNICA: No, I'm -- no. If they
14 capped -- you know how you're going to hook onto
15 the pipeline?

16 MR. MUEHLENKAMP: Yes.

17 MS. GARNICA: Okay. But if they capped
18 off, because you're -- you're putting a pipeline
19 going through 16th; right?

20 MR. MUEHLENKAMP: That's one option.

21 MS. GARNICA: Okay. Then you're going
22 to turn it down this way. Okay. So you're going
23 to turn it back this way. Going north,
24 south/north. I'm saying that then would you be --
25 if they -- if Southern Cal capped, you would be

1 able to still continue your gas to the energy
2 plant?

3 MR. LOOPER: Let me take a shot at that.

4 MR. MUEHLENKAMP: Yeah, go ahead.

5 MR. LOOPER: This is Bob Looper again.

6 MS. GARNICA: Do that.

7 MR. LOOPER: I think what you're asking
8 is that if -- if they capped the line, then we'd
9 lose service to the plant. And -- and that would
10 be a problem.

11 The reason that we're -- we liked Blythe
12 and sited here is we said initially, is that
13 there's two pipelines here. There's the 30 and
14 the 36 inch line. Because of that, we really have
15 redundant supplies of gas.

16 So if we were to -- if they were, for
17 example, to take one pipeline out of service, then
18 we would -- and we were connected to that pipeline
19 and we hadn't connected to both, we would swap
20 over to the other pipeline.

21 On the El Paso connection, which is on
22 the other side of the river, it's actually into a
23 header through there, so we're really not
24 connected into a pipeline, per se. We're
25 connected into a network.

1 And so -- and so at that point in time,
2 we have the advantages of both gas. It's one of
3 the reasons that this is a very good area for the
4 project, because the reliability of the gas is
5 high. It gives us multiple options.

6 So if they're capped off, the project
7 has options, so that we wouldn't lose the
8 reliability of the power plant.

9 MS. GARNICA: So -- yeah. So that means
10 then you would be able to -- if Southern Cal
11 capped within the -- within the town, you could --
12 you would still be able to make your deal, or
13 contract or whatever, with Southern California.
14 You see, because it's going to be with your new
15 pipeline.

16 MR. LOOPER: There's -- there's two
17 options --

18 MS. GARNICA: Southern Cal, you're going
19 to --

20 MR. LOOPER: Remember, Carmela, we have
21 the one option where we're building the pipeline
22 from the river.

23 MS. GARNICA: Okay.

24 MR. LOOPER: And that's the option that
25 Rob outlined out through there, that goes along

1 16th Avenue. And that's one option. And it takes
2 it into the plant. And our point of connection is
3 on the east side of the river. And from that
4 point, that's with El Paso, we'll be taking
5 natural gas from there into the project. That's
6 one alternative.

7 The other alternative would connect us
8 into one of the two, maybe both, of the SoCalGas
9 pipelines just south of the project. So just --
10 you have to take one at a time with me when you
11 ask a question, so I can take a question on
12 either one of those alternatives. I wasn't
13 certain what you were referring to on the
14 questions, whether --

15 MS. GARNICA: Basically referring to
16 tapping into a 50 year old pipeline, that if
17 anything happens -- and, of course, you can't
18 bring life back, but, I mean, whose -- then what
19 do you? And all that's speculation, you know,
20 because it can happen.

21 MR. LOOPER: The question is?

22 MS. GARNICA: The question is who -- who
23 has -- who has jurisdiction over the -- the
24 pipeline that's 50 years old, and if you're
25 connecting to it, and your equipment's supposed to

1 be state of the art.

2 MR. LOOPER: I think we have a good
3 answer for who -- who regulates that pipeline.
4 I'm probably not the best to do that, but if
5 somebody wants to take a shot at the regulated
6 side of the -- of the pipeline business.

7 MR. TELLEZ: Herm Tellez, and our
8 company, Marmac Engineering, specializes in
9 pipelines for gas lines transmission and
10 distribution.

11 The gas lines that are operated by
12 SoCalGas are monitored by the Office of Pipeline
13 Safety, and are monitored by the Department of
14 Transportation. They have full jurisdiction in
15 monitoring those lines.

16 The connection that would be made for
17 this process, for this plant, are from that
18 connection point -- let me give you an analysis.

19 On any residential street, you have a
20 main header. Okay. The connection that's made to
21 your home is governed by the contractor that puts
22 in that housing development. Okay. That's the
23 equivalent of what we're doing. We're just
24 connecting from that line into a house, and that's
25 -- that's an analogy you have to think about.

1 This power plant is a single source
2 user, so we're going to supply gas either from the
3 two existing SoCalGas lines, or from a connection
4 on the El Paso connection site. We have no
5 jurisdiction in our designs to upgrade their
6 facility. That's all governed by Department of
7 Transportation.

8 MS. GARNICA: So you don't -- you
9 wouldn't know about the inspections, internal
10 inspections that go on in that pipeline, then.

11 MR. TELLEZ: As part of this project,
12 no.

13 MS. GARNICA: So you really don't know
14 what you're connecting onto? You really don't
15 know the quality of the pipeline you are
16 connecting to.

17 MR. TELLEZ: Okay. That -- that
18 question is separate from the responsibility of us
19 inspecting it. The -- the line is designed to
20 certain standards, and we have information based
21 on their design criteria of what they're required
22 to meet. And they are within the standards of the
23 pipeline industry for the class that we will be
24 connecting to.

25 So I -- we personally have not been

1 tasked to do any inspections. That's done by the
2 Office of Pipeline Safety, and they monitor their
3 operation, their -- whatever inspections are
4 dictated. So we wouldn't be doing that.

5 MS. GARNICA: You wouldn't be expecting
6 -- inspecting the pipes?

7 MR. TELLEZ: Not their pipes. No.

8 MS. GARNICA: And when you inspect your
9 pipes, you guys do it with the pig, or is it
10 something that's --

11 MR. TELLEZ: We -- there are various
12 requirements that we are going to meet or exceed
13 when we do the design, and the inspections.
14 Currently it's -- it's not a national standard to
15 pig the lines, but that's -- we're planning for
16 that. This line will be designed for future
17 inspections, although it's not a requirement.

18 MS. GARNICA: Okay. I guess the other
19 questions pertain to -- on the -- there's on the
20 worker -- there's a question here on -- it says if
21 the Southern California Gas pipeline
22 interconnection is used, will the Seely pipeline
23 -- Seely pipeline still be necessary?

24 MR. GALATI: Do you understand -- does
25 anyone understand the reference to the Seely? Did

1 you say Seely?

2 MS. GARNICA: Seely. That's on 18th
3 Street.

4 MR. GALATI: Does anybody know the
5 answer to that question?

6 (Inaudible asides.)

7 MS. GARNICA: Well, the -- if the
8 Southern California Gas pipeline interconnection
9 is used, will the Seely pipeline still be
10 necessary?

11 MR. GALATI: Do you mean necessary for
12 this project?

13 MS. GARNICA: Well, you know, it's --
14 well, a pipeline freeway, I don't know if you
15 noticed that or not --

16 MR. GALATI: But the question is?

17 MS. GARNICA: -- 16th and 18th. Yeah,
18 there's other pipelines, and they -- it's going to
19 be -- they're going to interconnect. That's why I
20 need to ask --

21 MR. GALATI: So I -- I'm just trying to
22 clarify. Your question --

23 MS. GARNICA: -- yeah.

24 MR. GALATI: -- is whether or not --
25 whether -- you're concerned whether this project

1 will still need that pipeline, or whether you're
2 asking if someone else will need that pipeline.

3 MS. GARNICA: Will anybody else
4 interconnect into your pipeline?

5 MR. GALATI: Who can answer that
6 question?

7 MR. LOOPER: The question was -- and
8 when you talk about the Seely line, you're talking
9 about the 18th Avenue --

10 MS. GARNICA: Yes.

11 MR. LOOPER: -- Seely pipeline.

12 MS. GARNICA: Yes.

13 MR. LOOPER: And the question is -- one
14 more time? And maybe Scott, you can help me with
15 that before I say -- before I say my answer. The
16 question is will anybody interconnect to -- with
17 our pipeline?

18 MS. GARNICA: Well, it -- yes.

19 MR. LOOPER: The answer is no. Our
20 pipeline -- of the two alternatives, the
21 alternative from the El Paso or the alternative
22 from SoCal, is a direct service pipeline to the
23 project.

24 MR. GALATI: And with respect to the
25 other portion of the question, it had to deal with

1 whether or not it would be, one, is it necessary
2 for the project, the Seely pipeline, or, two, will
3 it be necessary for something else. If you can
4 add to that.

5 MR. LOOPER: The Seely pipeline, the
6 Baja line, is a project proposed by another
7 entity. It has nothing to do with our project,
8 and we have no impact on that project one way or
9 the other. It's completely independent.

10 HEARING OFFICER BOUILLON: And, Ms.
11 Garnica, I would add that the California Energy
12 Commission has no jurisdiction over that pipeline
13 either.

14 (Inaudible asides.)

15 MR. LOOPER: So are you saying that 16th
16 Avenue pipeline is our pipeline.

17 MS. GARNICA: Yes.

18 MR. LOOPER: So 16th Avenue is our
19 pipeline that is the El Paso alternative. And
20 that is our -- one of our alternatives. But there
21 is nobody interconnecting into that line. That's
22 a direct service line to the power project.

23 MR. GALATI: If I could get just some
24 clarification. When you use the term Seely, is
25 that a street name, is that a --

1 MS. GARNICA: Yes.

2 MR. GALATI: Okay.

3 MS. GARNICA: I guess pertaining to -- I
4 just have to categorize a lot of the --

5 MR. GALATI: Let me see if I can help.
6 Do you have any other further questions about the
7 pipeline?

8 MS. GARNICA: No.

9 MR. GALATI: Can I -- I can bring the
10 rest of the people up and they -- they can answer
11 a variety of questions. But I think we can have
12 Rob Muehlenkamp, Rob Holt, and Herm move, and we
13 can get people who can address the other portions
14 of questions you might have.

15 And if this helps, Carmela, this is Joel
16 Reisman, Air Quality, and this is Gordon Frisbie,
17 Air Quality and Public Health. And -- and Rob
18 Muehlenkamp, for Air Quality, and Leon Crain for
19 Public Health and Hazardous Materials Management.
20 Let me get Leon up here. And Jeff Harvey for
21 Socioeconomics.

22 MS. GARNICA: Yes, well Public Health --
23 okay. In the -- in the cumulative impacts of the
24 Public Health section, you know, of the FSA, it
25 stated that elevated concentrations of toxic air

1 contaminants from stationary sources tend to be
2 quite localized, and cumulative risks are likely
3 to occur only when multiple facilities with
4 substantial low level emissions are immediately
5 adjacent to or very close to one another.

6 This facility is powered by gas engines
7 having relatively short exhaust stacks. The low
8 height of the exhaust stacks limits the dispersion
9 of the emissions resulting in the area of impact
10 located close to the source.

11 Okay. The question is, are there any
12 commercial citrus groves immediately adjacent to
13 the proposed plant?

14 MR. GALATI: If I could just get a
15 clarification before we go there, so that we're
16 all taking from the same page. Were you quoting
17 from the FSA?

18 MS. GARNICA: Yes.

19 MR. GALATI: Could you direct us to what
20 page?

21 MS. GARNICA: Public Health Section --
22 268. It starts on 268.

23 MR. GALATI: Just so I have it clear,
24 there were a couple different parts to the
25 question. The first had to do with the gas

1 engines.

2 MS. GARNICA: Yeah.

3 MR. GALATI: The other said low stack
4 height? Is that what you said?

5 MS. GARNICA: Yes. I'm trying to find
6 the exact --

7 MR. GALATI: This is -- this is a
8 question about the Southern California Gas
9 compressor station?

10 MS. GARNICA: -- 278. Yes.

11 MR. GALATI: Was your question whether
12 or not there are citrus orchards next to the
13 Southern California Gas compressor station?

14 MS. GARNICA: No. Are there any
15 commercial citrus groves immediately adjacent to
16 the proposed power plant?

17 MR. GALATI: We're -- and I just want to
18 make the record clear. We're confused, as you --
19 the first part of your question talked about the
20 Southern California Gas station. The Southern
21 California Gas compressor station.

22 The second part of your question asked
23 about what was adjacent to the power plant.

24 I just want to make sure that we have
25 two questions here.

1 MS. GARNICA: Because -- okay. Because
2 we're talking about the elevated concentrations of
3 toxic air contaminants. It says here, on 279, it
4 says the low height of the exhaust stacks limits
5 the dispersion of emissions resulting in a area
6 impact located close to the source.

7 MR. GALATI: I'm sorry to do this to you
8 during your questioning, Carmela, but that --
9 that's referring to the Southern California Gas
10 compressor station. Not to the project site. Not
11 to the power plant.

12 So I guess -- can someone answer her
13 question about whether there's commercial citrus
14 --

15 MR. CRAIN: As far as near the facility
16 -- our commercial -- okay.

17 As far as the power plant, there are
18 commercial citrus groves to the east and also on
19 the other side of the freeway, on -- oh, excuse
20 me. My name is Leon Crain.

21 There are commercial citrus groves to
22 east. I think they're owned by Sun World, and
23 there are some new citrus groves on the south side
24 of I-10.

25 MS. GARNICA: So is -- so these exhaust

1 stacks --

2 MR. CRAIN: Maybe -- let me tell you.

3 Do you know what a health risk assessment is?

4 Would you like me to let you know what that is?

5 MR. GARNICA: Okay.

6 MR. CRAIN: What -- what a health risk
7 assessment really does is try to determine what --
8 if there is any health risk to residential or
9 people near a site. They do not normally look at
10 the workers at the site. They look at residential
11 areas close by, to see if the emissions from that
12 facility will present any risk, health risk,
13 either cancer or non-cancer, to those people
14 living there over a given period of time.

15 MS. GARNICA: Okay. How about --
16 there's 150 farm workers working there every day.
17 Daily.

18 MR. GALATI: When you say there, where
19 are you referring to?

20 MS. GARNICA: To the groves where he
21 said -- that were adjacent to the power plant.

22 MR. CRAIN: A hundred and fifty working
23 there every day, or just during the harvest
24 season?

25 MS. GARNICA: Farm workers -- they work

1 for eight months, six to eight months. They start
2 in September, and they finish in March.

3 MR. FRISBIE: This is -- this is Gordon
4 Frisbie. And when we modeled those sources, we
5 looked at impacts right at the plant boundary, in
6 addition to residences around the area.

7 So these impacts were evaluated at that
8 orchard. And it was determined that the impacts
9 would be below any level of concern at that
10 location.

11 MR. FRISBIE: Yeah, I -- I should --

12 MS. GARNICA: So --

13 MR. FRISBIE: -- describe that a little
14 better. I'm not saying the maximum impacts were
15 occurring at the orchard. The -- which were
16 insignificant. But that was part of the area. It
17 was a very large area of dispersion that was
18 evaluated.

19 MS. GARNICA: Okay. So that means that
20 the -- like the word emission only means what's
21 coming out of the stacks. It's not about the
22 water that's going to be there in the ponds? It's
23 not about the contaminants that will be drawn --
24 down drawn into the water, into the water that
25 they're going to irrigate the orchards with, and

1 that the farm workers are going to be working
2 around there? That's not that Public Health, or
3 is -- is that different?

4 MR. GALATI: Well, let me try to answer
5 it this way. The Public Health people have looked
6 at whether or not there are significant risks, or
7 any risks, associated with toxic chemicals or
8 contaminants that may be emitted from the project.
9 That can come in the form of -- of stacks, that
10 can come in the form of water that's evaporated,
11 and there was some work that was done on the
12 groundwater being evaporated, as well, that Mr.
13 Crain can answer. But those are two things that
14 were looked at, were emissions going into the air
15 for people to breathe.

16 Now, with respect to groundwater, and
17 being pumped from, I guess, other wells, and being
18 used to irrigate --

19 MS. GARNICA: Or in the draw-down, you
20 know, from the -- from contaminants that was,
21 according to the -- the analysis in this document
22 here, that said about the old dump site. So I'm,
23 you know, I was -- I was wondering if that was
24 still the same --

25 MR. GALATI: Let me break it into

1 pieces, because they did different things.

2 MS. GARNICA: -- Public Health. Okay.

3 MR. GALATI: How about if Leon takes the
4 question --

5 MR. CRAIN: I'll take the groundwater,
6 okay?

7 MS. GARNICA: Okay.

8 MR. GALATI: And also, when the
9 groundwater comes on our site and evaporates --

10 MR. CRAIN: Okay.

11 MR. GALATI: -- in the -- in the cooling
12 tower.

13 MR. CRAIN: Well, Gordon did some of the
14 -- that. But what we did is there was some
15 sampling done on two wells on the site. And what
16 I did is a chemical analysis of the levels in
17 those, and what vapors could get emitted from
18 those sources, or from that source, basically,
19 because it was groundwater source.

20 It came out that all levels were at or
21 below the maximum eight hour exposure level of an
22 employee. That means somebody would have to
23 breathe all the vapor that came from that well
24 over an eight hour period to either reach or, you
25 know, almost all cases, or be below that. That is

1 almost physically impossible. So the emissions
2 from the groundwater were determined to be -- was
3 that no harm to individual, either workers on the
4 plant or the workers away from the plant.

5 MS. GARNICA: And how far is that?

6 MR. CRAIN: That means you -- basically,
7 the water comes out, you put a pipe there, and you
8 basically hook all the air coming out, or with all
9 the evaporations, and breathe it, for one person.
10 And it's not going to create any harm to that
11 person.

12 So, you know, if you go ten feet away,
13 the mixing of the air around that would drop that
14 way down to even fractions, and micro-fractions of
15 that.

16 MS. GARNICA: Okay. So --

17 MR. GALATI: The other part of your
18 question, just to answer, had to do with
19 emissions. These are emissions from combustion
20 that come out of the stack. And if -- if Mr.
21 Frisbie could talk about, first of all, a little
22 bit about the parameters of the stacks, how tall
23 they are, and what the emissions were and what you
24 did.

25 MR. FRISBIE: Yeah. The stacks are

1 going to be 130 feet high, and the emissions that
2 we looked at, I assume you're concerned about the
3 hazardous pollutants, and the most significant of
4 those is formaldehyde. And also, we looked at
5 criteria pollutants, nitrogen oxides, carbon
6 monoxide, sulfur dioxide, particulates.

7 And we used what's called dispersion
8 modeling, using local weather data, hourly, so --
9 in hourly increments these pollutants are modeled
10 to disperse throughout the air. And in the -- in
11 the area outside the property boundary, starting
12 at the property boundary and out to, oh, five
13 kilometers, at least, I believe it went out, we
14 assessed what concentrations of those pollutants
15 would be present at -- in the air at those
16 locations. And it was determined that the impacts
17 would be very low, and below any level of -- of
18 health concern.

19 MS. GARNICA: So then the -- then this
20 would -- would this be questions before you also
21 on the electric magnetic field? Is that --

22 MR. GALATI: No, that's something that,
23 quite frankly, I think Staff might be more
24 available to -- to answer that question, if they
25 brought their Transmission Line Safety and

1 Nuisance person.

2 Bob Looper can -- can take a shot if you
3 have a question about that.

4 MS. GARNICA: Yeah, it stated in --
5 okay, let's see, page number --

6 MR. GALATI: Why don't you tell --

7 MS. GARNICA: It said that -- okay. It
8 just said, you know, a -- was that there are no
9 residents within the proximity of the proposed
10 facility. That there are no residents. I'm
11 presuming that they're talking about -- well,
12 okay. But that was -- that was before. That --
13 that was in here before, before we -- we're going
14 to see actually how many people live in that
15 proximity, right? So I don't need to --

16 HEARING OFFICER BOUILLON: Well, what --
17 what -- do you have a question about the air
18 emissions?

19 MS. GARNICA: The -- yeah, the electric
20 magnetic field exposure.

21 HEARING OFFICER BOUILLON: Ms. Garnica,
22 I understand the witness to have said they did a
23 study about what's going to come out into the air,
24 and they determined that there was no danger to
25 anyone, No matter how many people there were, it

1 made no difference.

2 MS. GARNICA: Okay.

3 HEARING OFFICER BOUILLON: There was no
4 danger to anyone. Is that correct? That your
5 tests are not dependent on the number of people in
6 the area.

7 MR. FRISBIE: No, it is -- it assumes --
8 it actually assumes that someone's present at each
9 one of those points.

10 MS. GARNICA: Then I have a question
11 that pertains to the electric magnetic field
12 exposure.

13 HEARING OFFICER BOUILLON: That was not
14 an area in which we think --

15 MS. GARNICA: That's not pertaining to
16 Public Health? Okay.

17 MR. GALATI: That's fine. Go ahead.

18 PRESIDING MEMBER KEESE: Yeah. I think
19 we had a volunteer who was willing to answer. Is
20 this a generic question about the dangers of EMF?

21 MS. GARNICA: Yes. The strength --
22 well, just because it mentioned in here, it
23 mentioned that there are no residents in the
24 proximity of the proposed facility. So --

25 PRESIDING MEMBER KEESE: Basically, EM

1 -- let me --

2 MS. GARNICA: -- that means that --

3 PRESIDING MEMBER KEESE: -- try to guide
4 this. EMF would be major power lines.

5 MS. GARNICA: Okay.

6 PRESIDING MEMBER KEESE: And what --
7 what -- if -- are you suggesting -- they're saying
8 since nobody lives there, the lines that they put
9 in won't go next to anybody's house.

10 MS. GARNICA: Okay. So --

11 PRESIDING MEMBER KEESE: But that's
12 different than your two mile standard. They're
13 saying it's not going to go within the 100 feet or
14 200 feet, probably.

15 MS. GARNICA: So they're also talking
16 about no workers there. So --

17 PRESIDING MEMBER KEESE: Well, if they
18 said no residences, they're talking about
19 residents.

20 HEARING OFFICER BOUILLON: Let me ask --

21 MS. GARNICA: Okay. No, it just says --
22 oh, yes. So --

23 PRESIDING MEMBER KEESE: Could we get --
24 you can ask --

25 MS. GARNICA: -- so that means no

1 people?

2 PRESIDING MEMBER KEESE: You can ask him
3 a generic statement about it, whether there's any
4 risk to anybody from EMF, if you'd like to ask him
5 that question. I think he's prepared to answer
6 that one, too.

7 MS. GARNICA: Yes. Exactly like the way
8 he said it.

9 (Laughter.)

10 MS. GARNICA: Because, you know, the
11 workers. They're going to --

12 MR. LOOPER: The question was is there
13 any risk to any worker from EMF.

14 MS. GARNICA: Yes.

15 MR. LOOPER: Existing, or because of the
16 project?

17 MS. GARNICA: Because of the project,
18 because are you not going to use -- are you going
19 to use transmission lines? Aren't you going to
20 use -- aren't you going to criss-cross the --

21 MR. LOOPER: Let me --

22 MS. GARNICA: -- with the electricity?

23 MR. LOOPER: -- let me a little bit
24 sidestep the question. And I won't address
25 whether there's any EMF issue existing, because

1 that is a huge subject, as you know, and there's
2 lots of testimony on that.

3 I will tell you that the statement was
4 made in the application, because -- and maybe over
5 there someone can point out for me the Blythe
6 Substation. The Blythe Substation has five 161 kV
7 lines coming in, and those who have been out there
8 have seen the transmission. And the project site
9 is going up in -- in the corner. We're less than
10 2,000 feet from the Blythe Substation. And
11 because of the interconnections, the way that the
12 two substations interconnect, we're actually going
13 to be cleaning up a little bit the -- the wires in
14 the air.

15 And your net at the end of the day is
16 really going to be no change in transmission in
17 the air due to the project, relative to what
18 you're talking about in terms of lengths of
19 transmission lines and new transmission lines
20 going that could impact people.

21 So the safe, you know, to sidestep the
22 existing issue, the project isn't creating any
23 additional EMF issues.

24 MS. GARNICA: So you're not going to --
25 you're not going to be criss-crossing over the

1 orchards at --

2 MR. LOOPER: Any more than is already
3 criss-crossed. Remember what I said, there's
4 already a bunch of lines criss-crossing there that
5 are a little bit confusing.

6 MS. GARNICA: Yes.

7 MR. LOOPER: And because of the geometry
8 in through there, we're going to actually be
9 combining lines and moving things around a little
10 bit. It'll be a little bit cleaner when we're
11 done. But there will be no net increase in EMF on
12 the site.

13 MS. GARNICA: This is part of the
14 alternative too, right? I --

15 MR. GALATI: Yes, Alternatives.

16 Do you have anymore questions for Air
17 Quality, or for Public Health or Hazardous
18 Materials? Because I can bring the Project
19 Alternatives people up.

20 Mr. Harvey, and Mr. Cameron.

21 HEARING OFFICER BOUILLON: We're going
22 to give you a break --

23 MR. GALATI: If you guys could just
24 again state your name for the record.

25 DR. HARVEY: I'm Jeff Harvey, with

1 Greystone Environmental Consultants.

2 MR. CAMERON: And I'm Tom Cameron, with
3 Blythe Energy.

4 MS. GARNICA: If -- okay. Well, I'll
5 just read that little part that's in -- in the
6 FSA, the response to public and agency comments,
7 Staff cited industrial development of open desert
8 land, significant electrical transmission lines,
9 lack of substation, and longer natural gas
10 transmission lines as the reason for not
11 considering the area of the prison sites -- excuse
12 me -- as an appropriate alternative for the
13 project.

14 Okay. Now, the question is, does the
15 BEP's representatives have any dollar amount
16 figures and environmental impacts as how much more
17 it would cost to site the proposed BEP plant by
18 the prison sites?

19 MR. GALATI: Okay. I would just like to
20 point out that with respect to Staff's analysis,
21 you can -- you'll have the opportunity to question
22 Staff on what they concluded in their FSA. But I
23 think that question is probably --

24 MS. GARNICA: Yeah, because it's just
25 that it quotes you guys, and it quotes Staff. I

1 mean, you know, it's --

2 DR. HARVEY: I'd be happy to try to help
3 with that.

4 When we looked at alternatives, we
5 looked at a number of sites throughout southern
6 California to finally get here to the Blythe site
7 that we chose for -- for a list of criteria that
8 were talked about at the -- at the opening of the
9 Project Description, that it had the natural gas
10 supply, that it had transmission, that it had
11 water resources, that it was not environmentally
12 sensitive for biological or cultural resources,
13 that it was not a conflict for land use with other
14 surrounding land uses, and that there was
15 permitting feasibility and political acceptability
16 for the project in the -- in the host community.

17 So those were all the kinds of things
18 that we looked at. Then within the community, we
19 looked at a number of alternatives for where you
20 could put the site and make -- where you could put
21 the power plant, and -- and make the power plant
22 work without having to increase the amount of
23 linear facilities. Increased pipeline, increased
24 transmission line, increased water lines, for
25 example.

1 So that -- because we want to de-
2 minimize those, because those are typically the
3 greatest environmental impacts that are associated
4 with a project.

5 And we also look at, as a standard --
6 and I know the Staff did the same thing, I'll
7 leave it to them to testify to this -- but what we
8 did in our Alternatives analysis, and I know that
9 Staff followed the same legal guidance, was to
10 look at alternatives that would address
11 environmental impacts, that would lessen
12 environmental impacts of the proposed project. We
13 don't just look willy-nilly at alternatives over a
14 map. We look at those that can actually reduce
15 some of the -- some of the negative effects of the
16 project, to the extent that there are some.

17 And those projects that increase those
18 negative effects are -- are, by definition, then
19 eliminated from further consideration.

20 So that's why we don't go very much
21 further in -- in analyzing projects that require
22 us to build significantly more transmission lines,
23 significantly more gas pipeline, significant other
24 linear facilities, if they don't give any other
25 environmental advantages. And in this case, there

1 were no environmental advantages by moving the
2 site to alternative locations, and the site
3 itself, the environmental issues had been
4 determined could be resolved here. There were no
5 health and safety effects, there were no air
6 quality effects that couldn't be resolved at this
7 site as well as anywhere else. Same thing with
8 water supply, transmission, all of those issues
9 worked at this site, and didn't work better at
10 other alternative sites.

11 So that's how we did it, then, and
12 that's why we dismissed some of the -- the more
13 remote kinds of sites that you've suggested, the
14 desert, and next to the -- the prisons, for
15 example.

16 MS. GARNICA: But -- so what would -- if
17 you did move it out there, what would be -- not
18 that I really care how much the cost is going to
19 be, because that's coming out of that pocket, you
20 know. But what I'm trying to say is apparently,
21 or evidently it's not enough -- there is going to
22 be impact here by putting the plant in town,
23 because that's why we didn't have the water issue
24 resolved yet.

25 DR. HARVEY: The resolution of the water

1 issue, though, is really fine tuning of -- of
2 exactly where and when, and what depth of well
3 penetration, what draw-down of water level, and
4 it's not a -- it's not a question of whether or
5 not we will make sure that people remain whole
6 with their wells. It's really fine tuning details
7 about how that works.

8 And -- and getting to your question of
9 cost, I understand you have a question about do we
10 look at the cost differences. The cost
11 differences are the -- aren't the big issue. The
12 issue is minimizing those environmental effects
13 and -- and increasing those linear facilities, has
14 the disadvantage of increasing cost, to be sure,
15 but it also has the disadvantage of increasing
16 those potentially adverse environmental effects of
17 -- of transmission lines and gas pipelines going
18 further than they go.

19 Tom, did you have something to add to
20 that?

21 MR. CAMERON: Yeah. This is Tom
22 Cameron.

23 As the Project Director, I have a fair
24 understanding of the project economics. That's
25 one of my responsibilities. And I can tell you

1 that if we built the project out near the Blythe
2 Prison, it would not, absolutely not be
3 economically feasible. And there would therefore
4 not be a project. It's just not feasible.

5 MS. GARNICA: To whom?

6 MR. CAMERON: To the people that are
7 invested in the project. To -- to Blythe Energy,
8 the developer. We would not build the project out
9 there.

10 MS. GARNICA: Well, that's how we feel,
11 the people who live in the Mesa. We're looking at
12 it the same -- with the same statement that you
13 made.

14 HEARING OFFICER BOUILLON: Ms. Garnica,
15 I'm going to have to ask you to ask questions, or
16 we'll never finish tonight.

17 PRESIDING MEMBER KEESE: And -- and I
18 will say, we do -- we know that we've been
19 contacted by a couple of the people in the
20 audience who do want to ask some questions, so
21 we'd like to leave some time for that purpose,
22 also. Or make comments.

23 MS. GARNICA: Okay. Okay, if the main
24 objective of the BEP is to sell electricity in the
25 open market, BEP does not pretend to be a

1 charitable organization or a community electric
2 cooperative. It's a proposed merchant power
3 plant. Okay.

4 Now, the question. What is the
5 projected payback time for BEP, and at what point
6 in time will it start to make --

7 MR. GALATI: I will object to any
8 questions that deal with project economics as
9 confidential. That's --

10 MS. GARNICA: Oh, is that right?

11 MR. GALATI: -- that's the only
12 objection I've made so far.

13 HEARING OFFICER BOUILLON: And I have to
14 sustain that objection. That's not a proper
15 subject of inquiry for this Commission.

16 MS. GARNICA: Oh. Then that means I
17 can't -- okay. Well, then this will lead into
18 that.

19 Okay. According to the Associated
20 Press, the Press Enterprise dated November 24,
21 2000, the Southern California Edison Company
22 recently released a study that state that the
23 electric suppliers recently released a study that
24 states that the electric suppliers in California
25 manipulated prices by withholding power at key

1 times. Plant owners and electricity resellers
2 made huge returns starting about -- about June, by
3 cutting back power generation at some plants,
4 creating artificial shortages that sent prices
5 soaring.

6 Now, that brings it back to in BEP's
7 testimony the objectives are --

8 HEARING OFFICER BOUILLON: Ms. Garnica,
9 is this leading up to a question?

10 MS. GARNICA: Yes. What is the
11 guarantee that the California electric consumers
12 have that BEP will provide economical, reliable,
13 and environmentally sound electrical energy in the
14 restructured power plant?

15 MR. GALATI: I believe this question was
16 asked and answered by Bob Looper on each point.

17 MS. GARNICA: That's why I asked you
18 about --

19 MR. GALATI: Ms. Garnica, we're not
20 going to discuss the finance -- financial
21 situation of the project, both present, past, or
22 future.

23 HEARING OFFICER BOUILLON: That question
24 has been asked and answered.

25 MS. GARNICA: Okay. I have no further

1 questions, then.

2 MR. GALATI: Thank you.

3 HEARING OFFICER BOUILLON: We're going
4 to give you a break now, before you ask the Staff
5 some questions.

6 There have been several members of the
7 public that have indicated a desire to make some
8 comments, and we're going to take that public
9 comment now. And then maybe we'll all take a
10 short break to stretch our legs, then we'll
11 continue the examination of the Staff witnesses.

12 Do you have any list of anyone?

13 PRESIDING MEMBER KEESE: Actually, we
14 only have one name. But we understand there's
15 another --

16 HEARING OFFICER BOUILLON: I don't know
17 if Quenten Hanson is still here or not. Do you
18 have -- would you like to make any public comment?

19 PRESIDING MEMBER KEESE: Other than
20 cross examination of the witnesses. Not cross
21 examination of the witnesses.

22 MR. HANSON: My name is Quenten Hanson.
23 I work for Palo Verde College. I'm the Director
24 of their Small Business Economic Development
25 Center at the College, for the past two years.

1 And I believe I've seen the petitions
2 that have been going around by a couple of the
3 groups here in town. I've also seen the half
4 newspaper ad, and so forth, and feel very frankly
5 that they're based on lack of total factual
6 information. And I would like to make a comment
7 here that I don't think they have really
8 considered in their item.

9 First of all, the direct benefit to this
10 community of this plant coming to this area is
11 tremendous. We have not seen a \$225 million
12 project here in Blythe in a heck of a long time,
13 and I doubt if we'll see one in the future. One
14 of the ads in the paper said oh, we've got our own
15 plan, just wait and see. Well, we haven't heard
16 anything from what other plan they'd put in place
17 of this plant. And so until I see what great plan
18 they have, I have to address what plans we have
19 here, and what the benefits are.

20 First of all, from just during the
21 construction phase, roughly 200 employees,
22 construction workers coming to this town, they're
23 going to need housing, food, and recreation. We
24 have most of our recreational outlets here in this
25 town, whether it be the bowling alley, whether it

1 be the golf course, whether it be our theater, or
2 you name it, are hanging on by their fingertips.
3 A couple of them, in fact, losing money year after
4 year. And so having additional people using these
5 recreational areas is going to be a great benefit
6 to this area, as well as the food and the housing
7 that -- revenues coming.

8 There has been the comment that the 20
9 to 30 workers at the plant, once it's established,
10 aren't going to come from Blythe. Well, that's
11 true. We do not have highly paid technicians here
12 in the City of Blythe at the current time. We
13 have a hard time finding people with a Master's
14 degree to teach our various courses at our local
15 college.

16 However, the good news is once the plant
17 is here, I'll bet a high number, if not most of
18 those, will relocate to the City of Blythe. And
19 very frankly, I have no objection to seeing high
20 paying jobs and employees relocating here to the
21 City of Blythe. That's a direct economic benefit.
22 And very frankly, we're looking at a minimum
23 payroll well over a million dollars of these
24 people coming here, and not talking about the
25 multiple benefits of these individuals coming to

1 our area.

2 There has been some talk about the
3 collateral benefits. First, our education system
4 here in town, our K through 12, we think have
5 experienced decreasing enrollment. That's
6 decreasing enrollment in our local school system
7 here for the past three years. Not very many
8 California schools can say that. But what you
9 don't realize is the amount of negative effects of
10 decreasing enrollment, being that the budget
11 constraints and so forth.

12 Very frankly, the families that the 20
13 to 30 employees will bring, plus collateral
14 benefits, will increase enrollment in our
15 schools, increase the budget of our schools, and
16 there's a lot of benefits in having additional
17 computers, books, and so forth, available to the
18 population here locally. That's one of the
19 collateral benefits.

20 The tax revenues that the city will get.
21 I am on the Chamber of Commerce Board of
22 Directors, and one thing that we became aware of
23 two years ago that we have some budget tightening
24 going on with the City of Blythe. And our
25 allotment that the chamber gets, as far as our

1 revenues, was cut. And very frankly, the city,
2 while we do quite well for a small town and they
3 do a great job of managing the funds they have, as
4 you can see by our fine parks and other
5 recreational areas, and so forth, they do have
6 tight budgets. And they have to -- they can
7 scream before they spend every penny here in the
8 city. They do a pretty good job of it. But
9 having additional tax revenues from this plant
10 will benefit everybody in this community, not just
11 a few, but every individual that lives in Palo
12 Verde Valley.

13 And improved power reliability. There
14 has been a great concern expressed here of
15 possible potential impacts on the water system,
16 impact on the air, and so forth. Well, one of the
17 advantages of living here that makes it possible
18 for us to live here, is, in fact, electricity that
19 powers our air conditioning unit. You'd better
20 believe, when it's 120 degrees outside, it's a
21 great comfort to come indoors and have that air
22 conditioner going.

23 Yes, we do have high power bills, and
24 we've been told that those power bills are going
25 up in the next 18 months. However, nonetheless,

1 there's very few of us that think they're going to
2 cut off power to our air conditioners when it's
3 120 degrees outside. We moderate it, but -- and
4 control it, but we won't shut it off. So there's
5 a very definite economic benefit to having an
6 electrical generating plant located here in this
7 community.

8 If southern California does in fact
9 experience brown-outs and shortages, I don't have
10 to tell you that who gets cut first from one of
11 these distribution lines, San Diego residents or
12 Blythe? There's more voters in San Diego than
13 there is here in Blythe, and we're likely to be
14 the ones browned out more often than other areas.
15 So I don't think they've considered the benefit of
16 having locally generated power. While this
17 doesn't go directly into the homes of citizens,
18 since they are a wholesaler, there's an indirect
19 benefit of having locally generated power, as far
20 as we're not held captive by outside power sources
21 in San Diego County, or thereabouts.

22 Finally, the last collateral benefit is
23 I'm aware of at least one major, oh, collateral
24 plant being considered being located next to the
25 power plant. And this plant will, in fact, while

1 it won't have the highly technical employees that
2 don't live here in Blythe, these are -- this plant
3 is going to have truck drivers, forklift
4 operators, and so forth, that the citizens of
5 Blythe are ready to in fact walk in to those jobs.
6 And so there's already talk about collateral
7 development along with this plant. And so it's a
8 very positive benefit of having this plant
9 actually located here.

10 Finally, to close, I have no doubt that
11 this plant is not perfect. I mean, there's
12 something coming out of those smokestacks, there's
13 some water drawn down, and forth. There isn't any
14 economic project I can think of, and realize I
15 teach theory in the classroom and get reality when
16 I go out to the -- as the director of the Small
17 Business Economic Development Center, there isn't
18 any economic project that doesn't have negatives
19 to it.

20 However, when you consider the gas-fired
21 turbine plant they're considering here compared to
22 the other alternative electricity, I'll take this
23 one any day of the week. And, in fact, Maricopa
24 County, as some of you are probably aware of, that
25 has the City of Phoenix in it, they're considering

1 nine similar plants exactly to this one. And I'll
2 guarantee you that the population located within
3 each of those plants makes the population that
4 they're talking about in the entire area of Blythe
5 look miniature by comparison. And I don't think,
6 while Arizona has different regulations than
7 California does, I'm sure, that stringent, I'm
8 sure they're not endangering the populations
9 centers there by building these plants.

10 Gas turbine is, in fact, a clean
11 electrical energy source. The City of Blythe is a
12 good location for this source. And I sort of take
13 a little bit of umbrage also to the suggestion
14 here by the -- I don't know what -- the suggestion
15 that, well, well, let's locate it out to the
16 prison. Well, what is the prison population out
17 there? There are 6,000 out there. If there is
18 any danger to this plant being located anywhere
19 around here, are they suggesting that, well,
20 prisoners can be written off, that their health
21 isn't as important as the citizens of Blythe? I
22 take exception to that, also.

23 And so I see no objection, from my
24 viewpoint, of having the power plant located in
25 its current location. I see all types of

1 positives to it. And therefore, I urge the
2 Commission to give speedy approval to this
3 project.

4 Thank you.

5 HEARING OFFICER BOUILLON: Thank you,
6 Mr. Hanson.

7 Is there any other member of the public
8 that would like to make a comment?

9 MR. NELSON: If I may, Les Nelson, City
10 Manager of Blythe.

11 I echo much of what Mr. Hanson has said.
12 I believe there are tremendous economic benefits
13 associated with the power plant. It is the reason
14 why the city has been and continues to be in
15 support.

16 Certainly we're -- we're currently in
17 the Edison district. We all know what those rates
18 look like. We believe with Blythe Energy we can
19 become an aggregator, we believe we can reduce our
20 costs anywhere from 10 to 15 percent. We have
21 negotiated, through an MOU, an ability to actually
22 acquire electricity at rates comparable to
23 wholesale prices, and that will certainly have
24 economic benefit to the community.

25 A couple of other comments. Annexation

1 of the Mesa Verde. The city has no intention, no
2 plans in the immediate future to annex the Mesa
3 Verde area. In terms of the 2500 people up there,
4 I have a report prepared by the Department of
5 Health Services that indicates there are 1100
6 people, and approximately 363 service connections,
7 not the 2500 previously mentioned.

8 Blythe is a tough sell. When you sit
9 down and you try and attract businesses to this
10 community, we don't have many comparative
11 advantages. Certainly having an affordable power
12 supply would be an advantage, along with abundant
13 water and a good labor pool.

14 As did Mr. Hanson, I would urge you to
15 support -- or to approve the Blythe Energy
16 Project.

17 Thank you.

18 HEARING OFFICER BOUILLON: Thank you.

19 MR. FIGUEROA: My name is Alfredo
20 Figueroa, A-l-f-r-e-d-o, F-i-g-u-e-r-o-a. And I
21 was born in Blythe. As a matter of fact, I was
22 born just the other side of the street here. My
23 mother was born here, and we're from the
24 Reservation.

25 And my mother used to have a saying,

1 always. She says, "El diablo nunca duerme"; the
2 devil never sleeps. And no truer words can come
3 from my mother today.

4 We have just recently fought a big
5 battle where we stopped a nuclear power dump,
6 toxic dump at the valley, thanks to our Green
7 Action, our Native American Alliance that fights
8 rights here in the Colorado River. We barely
9 stopped it.

10 You know, prior to that, we fought 12
11 years to stop that. Prior to that, we stopped the
12 San Diego Gas and Electric Sun Desert Nuclear
13 Power Plant that was going to be built right over
14 there at the bottom of our sacred mountain, Mule
15 Mountain, which is called Hamoc Avi.

16 Yes, our -- our city fathers here, and
17 representatives, there's big plans for Blythe.
18 Big, big plans, that you people don't have even
19 the slightest idea what's coming. And that's why
20 Carmela mentioned that. We don't need these
21 pollutions. We don't need these 13 towers, 13
22 story towers they are building right in front of
23 the airport. You know, just not too long ago, we
24 had an awful, awful disaster in Guadalajara. Over
25 4,000 people died because that rusty line blew up,

1 like it blew up in New Mexico another day.

2 Likewise, in that city west of our
3 pueblo, in Mexico City, over four -- I think it
4 was four to five thousand people there. I don't
5 know how many, lots of people died because the
6 plant exploded. It was a plant like this. Mexico
7 has top people, too, that know how to make plants.
8 But nobody can guarantee this.

9 What we are saying here, also, you know,
10 we were totally ignored. People here, you know,
11 our representatives, people from the Mesa Verde
12 here, especially monolingual Spanish-speaking,
13 which we are over 70 percent, there was not one
14 item in Spanish handed out to them. We had to
15 translate it. Our organization had to translate
16 all this information. And why should it be our
17 job to translate this information? We have a
18 government that's supposed to be equal and fair
19 and just, and we should have contacted those
20 people.

21 A lot of people have to work tomorrow,
22 they're going to go. That's why they didn't come.
23 Otherwise, we would have this whole place packed.
24 We can pack it, if we want to. But that's not the
25 issue. The issue we have right here, we have the

1 people and the petitions.

2 We don't need that plant here. We
3 already have -- Governor Davis, just in that
4 statement that he said, he said this is just
5 hogwash, they were just hoarding this, it was
6 greed, corporate greed. That's why our fine
7 friend over here refers to Blythe and says there's
8 not only how much money's going to be made, how
9 much -- and I'm going to address -- I want to know
10 what my percent is going to be. I'm going to say
11 okay, I want to invest \$100,000, but I want to see
12 how much is my return.

13 And these people have these secret --
14 everything's a secret -- a secret agenda. A
15 secret agenda. Sub rosa. Sub rosa. We're tired
16 of sub rosa. What do they pick here, where --
17 where they say oh, some of the Indians and some of
18 the Spanish people there, some of those --
19 community are involved.

20 No, we're tired of that, like I said,
21 about that ill-fated plant over there, Sun Desert
22 Nuclear power plant. We're going to fight it
23 tooth and nail. And we're preparing our lawsuits
24 already for the civil rights, under Title 6 of
25 1964. If you want to continue fighting, we'll

1 fight. We were born here, my mother, my
2 grandmother, great grandmother. We're going to
3 stay here the rest of our lives, right there
4 besides my mother and my father.

5 And we're not going to allow this --
6 this to happen, to come -- an agency like this,
7 coming -- actually, I know there are fine brothers
8 here. They're nice people. But I would strongly
9 recommend that they rescind -- rescind any prior
10 motions that they did to -- to entice this type of
11 industry.

12 The industry that we're looking for,
13 that's why we fought so hard for the prison. We
14 fought very hard for the prison. As a matter of
15 fact, my brother and I, we were the co-chairmen of
16 the committee, because we had the opposition of
17 the growers. But then we settled with them, you
18 see. They wanted -- we were going to build a
19 prison over there by the -- where the college site
20 is now, and it was decided to build it over there,
21 17 miles away. Why not have this 17 miles away
22 from here? Why not? And that will settle
23 everything.

24 Blythe, go back to Blythe. You know.
25 So why do we have to have this jeopardizing

1 everything. We have -- I have 11 acres right over
2 there in Mesa Verde, and that's where the major
3 project's going to be. The people of Blythe, like
4 I told Mr. Hall here, this -- Blythe is going to
5 be the most famous town in the western hemisphere,
6 in two years from now. Mark my words. Put it
7 down, my good lady. Put it down there in your
8 agenda. Alfredo Figueroa says, Blythe is going to
9 be the most famous town in two years from now.

10 And that's what we need. We need good
11 recreation. We want to continue with agriculture.
12 We're right now lobbying with some growers so they
13 can bring a fuchsia, a fuchsia plant. They're
14 going to build -- they're going to plant more
15 citrus. We need a fuchsia plant. We don't need
16 -- we don't need to destroy our agriculture.
17 We've got to support agriculture 100 percent. And
18 that's what we're doing.

19 That's why we don't want to displace
20 farmers from their job. The last time we did
21 that, you know, they -- they sold the water
22 rights. We had a major crisis, unemployment major
23 crisis here in the Palo Verde Valley. And that's
24 why we went, and we seeked with the State
25 Department of Prisons to bring a prison to Blythe.

1 And we're very fortunate now. Everybody's happy
2 with the prison in Blythe. They like --
3 everybody's happy. You know, very good thing.

4 Now, what's wrong with the prison? No.
5 It's given us good employment, and permanent
6 employment. And our sons of farmers are still
7 working there. And one of the views that we had
8 was 50 percent of the people that are working in
9 the prison were going to be local citizens, and we
10 got that, thanks to Senator Robert Presley, which
11 my son-in-law works for him. Not because he works
12 for him, but, anyway, we have this type of
13 industry. This is the type of industry we need.

14 Why pick Blythe? I understand it's very
15 profitable. We have the lines, Parker Dam. Yeah,
16 very nice. We have this other -- a gas line goes
17 there. That gas line goes all the way. It goes
18 all the way, and you can add a little ways out, or
19 down south. Not right here, adjacent to us. It
20 doesn't have to be here. You can have it -- and
21 like we said before, there is no energy crisis
22 right now in California. There is no energy
23 crisis.

24 Let's go -- you know, just south of the
25 border there's a big plant. You know what it is?

1 Tidal power. Boom. Goes in, goes out, goes in
2 and out, and every time there's a full moon it
3 goes bigger, boom. And it's ever eternal. It
4 never stops, that tidal power.

5 Well, you don't need all these other
6 damages that were going to be -- are proposing by
7 building this plant here. And I am a member of
8 Green Action from San Francisco, and the Bay Area
9 Anti-Nuclear Power. So I'm submitting this on
10 behalf of Green Action. Yes, he did write us --
11 this is his statement. And this is mine.

12 So let me tell you. Let's make the
13 right decision, our Committee here make the right
14 decision, and I strongly encourage our city
15 council fathers to rescind any motion as far as
16 supporting this project that's, like my mother
17 said, the devil never sleeps.

18 Thank you.

19 HEARING OFFICER BOUILLON: Thank you.

20 Is there any other member of the public?

21 PRESIDING MEMBER KEESE: Roberta, did
22 you have somebody else who was --

23 MR. LEIVAS: Good evening. My name is
24 Matthew Leiva, Senior. I am a member of the
25 Chemehuevi Tribe, which is on the west shore of

1 the Colorado River, at Lake Havasu, San Bernardino
2 County. And I'm here not representing my tribe,
3 but representing an organization which I'm co-
4 founder of, called the Salt Song Project, and the
5 Chemehuevi people, as well as the other 12 bands
6 of Southern Paiutes from Southern Utah, Nevada,
7 California, and Arizona.

8 And the importance of my being here
9 tonight is to express my concerns about the
10 project, as well as the -- the cultural
11 preservation for Native Americans.

12 I read a sheet that said the tribes were
13 contacted, Chemehuevi Tribe did not respond. I
14 believe it said Fort Mojave Tribe, as well Hopi
15 Tribe, was the only tribes that responded -- that
16 responded to this project. And I talked to my
17 Vice Chairman of our Council this morning, and he
18 was totally unaware of anything coming across
19 their desk. So I'm a little bit bewildered of
20 what -- what is happening and where's the
21 communication gap here.

22 But I'm here representing this
23 organization that I spoke of, the Salt Song
24 Project. And just to give you a little bit of
25 information, our Salt Song Project is -- is our

1 traditional spiritual songs, which cover over a
2 thousand mile area over the four states just
3 mentioned. And this is being -- this area is
4 within one of the areas, it encircles this area
5 around the Chuckwalla Mountains, crosses the
6 Colorado River down here at Blythe, and goes back
7 up to its point of origin at the Bill Williams
8 River.

9 But we sing these songs in memorials for
10 healing purposes, and funerals, and what-not. And
11 we sing from sundown to sun-up, and when we sing,
12 we travel in spirit throughout this whole thousand
13 mile journey and come back around to this way.
14 There are a number of other trails that --
15 tributary trails, if you will, that lead to other
16 sacred sites. Many lead to these areas that we're
17 talking about and referring to over here. And
18 some of the things that Mr. Figueroa's going to
19 reveal later on regarding his study and research
20 is going to open up the eyes of the people and the
21 public.

22 And this is why I'm here, also, because
23 over the years in time, these things were never
24 revealed to the public. They were kept within
25 ourselves, within our groups, and -- and

1 considered very sacred, and not to be shared with
2 the public. But we feel the time is now, because
3 of the importance of the different issues, all the
4 environmental issues, the air quality,
5 environmental quality, destruction of cultural
6 resource sites.

7 And -- you know, I read in there about
8 BLM and all the federal regulations, of all the
9 state concerns about cultural resources. And
10 frankly, I don't see the -- the protection of
11 cultural resources in this whole entire region.
12 Maybe throughout the whole country, for that
13 matter. I'm just familiar with things happening
14 in the southwest.

15 Mr. Figueroa had mentioned the Ward
16 Valley project. At that time I was the Tribal
17 Chairman for the Chemehuevi Tribe. We formed a --
18 the Native Nations Alliance of the five tribes of
19 the Lower Colorado River, and working with all the
20 different -- or the entities and organizations to
21 stop the project, because we felt it was a threat
22 to the environment. Not only because we were in
23 close proximity to the river -- it was in close
24 proximity to the river, 20 miles from our
25 Reservation, and one of the paths ran through our

1 Reservation. There was four other paths that led
2 to the Colorado River that we felt contaminated
3 water would go through. And that has proven out,
4 also.

5 Radioactive nuclides can travel through
6 water, and holds the -- this is the issue we rose.
7 It does -- it is able to travel through water and
8 be carried on downstream.

9 But we were thinking about the public.
10 We were thinking about our people, because of our
11 autonomy over our Reservation and our sovereignty.
12 But we were thinking about the general public,
13 also, 22 million people that could have been
14 affected by something that was done because of
15 money. Because of the dollar.

16 And I think that, you know, the people
17 of Blythe and the community should surely evaluate
18 this project. It may be a good project, for all I
19 know, but I don't think the location is the right
20 location, is my only argument.

21 And I do want to express my thanks to
22 the Committee and to the Commission for giving me
23 this opportunity to speak. I am going to be going
24 back to my Tribal Council and expressing what I
25 told you here, and I am going to ask my Tribal

1 Council to respond formally, as well as the other
2 12 bands of Chemehuevis and Paiutes, as well as
3 the river tribes.

4 So these are my concerns. I want to
5 thank you for listening to me, and have a good
6 night.

7 HEARING OFFICER BOUILLON: Thank you.

8 MS. BECEIRA: Good evening. My name is
9 Rosanna, and I will make it short and sweet.

10 I'm here representing the Mesa Verde
11 people. The Mesa Verde people are -- it's the
12 majority of us people, it's the Spanish-speaking
13 people. And we all say no to the energy project.
14 Most of the people -- most of the Mesa Verde work
15 in the lemons. That's most of the Mesa Verde
16 residents, that's where they work, in the lemons.
17 And what we -- they don't want to be near the
18 danger. They would really like more agriculture,
19 instead of being -- we don't need to live under
20 the constant threat of gas lines eruptions. We
21 don't need any natural gas plants polluting and
22 ruining our Palo Verde Valley.

23 We, the people of Mesa Verde, do want
24 the sewer, water, street light, and paved streets.
25 That's what we really need.

1 And, well, you guys were mentioning
2 water. You know, water here is more -- more --
3 water here is more popular than gold. To us here,
4 living in the desert, that's something we really
5 do need here, is the water. Okay. And even in
6 Mesa Verde, the water sometimes it comes real
7 slow, and in the hot -- in the summer, especially,
8 it's very, very hot. Okay. So it's like taking
9 winter showers in the summer.

10 So, you know, to us, water is very, very
11 important. That's one of the main concerns. And
12 like you say, it's okay if you guys do it, but,
13 you know, do it a little bit more further down
14 over there. But that's our main concern. We
15 don't really want it near Mesa Verde.

16 So we thank you very much for giving us
17 this opportunity. And please have that in
18 consideration. I'm speaking for not only one
19 person, but for a lot of people. And, again,
20 somebody said over a hundred units -- they used
21 to, like a -- like in the seventies, but now it's
22 growing.

23 Thank you.

24 PRESIDING MEMBER KEESE: Thank you.

25 Roberta, did you --

1 PUBLIC ADVISER MENDONCA: No one that I
2 know of.

3 PRESIDING MEMBER KEESE: Thank you.

4 If we have nobody else from the
5 audience, we'll take a five minute break, and then
6 we'll resume with your questioning of Staff.

7 (Thereupon a recess was taken.)

8 PRESIDING MEMBER KEESE: Are you ready?

9 Okay, let's -- as advertised, five minutes.

10 HEARING OFFICER BOUILLON: It's time for
11 musical chairs again.

12 MS. GARNICA: I beg your pardon?

13 HEARING OFFICER BOUILLON: It's time for
14 musical chairs again.

15 PRESIDING MEMBER KEESE: You're going to
16 have some questions of our -- our Staff.

17 HEARING OFFICER BOUILLON: For the
18 record, this is continued cross examination by Ms.
19 Garnica, this time with the Staff witnesses in the
20 areas of testimony, what we stipulated as between
21 Counsel here and the Staff, subject to the cross
22 examination by Ms. Garnica, the Intervenor.

23 MS. GARNICA: I just want to know, one
24 of the questions is --

25 MS. DE CARLO: We have to swear in the

1 witnesses before. I'm sorry.

2 The witness for Socioeconomics will be
3 James Fore. The witness for Hazardous Waste and
4 Facility Design will be Alvin Greenberg. The
5 witness for Alternatives will be Kevin Kennedy.
6 And the witness for Public Health will be Mike
7 Ringer. And they need to be sworn in.

8 (Thereupon James Fore, Alvin Greenberg,
9 Kevin Kennedy, and Michael Ringer
10 were, by the reporter, sworn to tell
11 the truth, the whole truth, and
12 nothing but the truth.)

13 MS. DE CARLO: Would you like me to
14 repeat the names?

15 James Fore, for Socioeconomics. Mike
16 Ringer, R-i-n-g-e-r, for Public Health. And I'm
17 sorry, I misspoke. Alvin Greenberg is for
18 Hazardous Materials, not Hazardous Waste. And
19 they're available for cross examination.

20 MS. GARNICA: I just have a question.
21 How many brownouts has the state experienced in
22 the past ten years, or five years, or within a
23 year, or whatever?

24 MS. DE CARLO: I'm sorry, I don't
25 believe anyone present is qualified to answer

1 that.

2 MS. GARNICA: Oh, I thought it was --
3 okay. I thought it was him.

4 Okay. So -- well, that's a question
5 that I had.

6 Is there other questions -- you know how
7 we're going in that sequence. If there are other
8 questions, is there a way that those can be
9 submitted? Because I know we -- I know that I
10 can't go back and forth. And can those questions
11 that were submitted to me, since I'm an
12 Intervenor, to ask, how -- how would I go about
13 that?

14 HEARING OFFICER BOUILLON: I would think
15 at this point the most appropriate way might be if
16 you would submit those in writing to the
17 Committee, and you could submit them just as
18 public comment. Not actually in -- in terms of
19 questions and answers, but just as public comment.

20 The Committee always tries to address
21 public comment in its Proposed Decision, and
22 provide answers that will satisfy that public
23 comment. You wouldn't get answers from these
24 witnesses, but you might get answers from the
25 Committee itself, after reviewing all the evidence

1 that has been submitted.

2 So if you would submit those, just in a
3 letter to the Committee, it might have some
4 effect.

5 MS. GARNICA: Okay, because there were
6 -- there were some questions, and the only
7 question I had was that, and how many brownouts or
8 price gouging has the state experienced in the
9 past ten years, or in the last five years, or --
10 that was the only question that I had for -- I
11 thought it was the Economic question.

12 HEARING OFFICER BOUILLON: Typically,
13 that is probably not a Socioeconomic -- something
14 covered by our topic of Socioeconomics.

15 MS. GARNICA: Okay.

16 Then is the --

17 HEARING OFFICER BOUILLON: I might -- I
18 might tell you also that it used to be one of our
19 topics that we used to have, a topic called Need.
20 Do you really need this plant. And that would be
21 perfect question in that topic.

22 But they changed the law about a year or
23 two ago, and that's no longer a topic that we're
24 authorized to investigate.

25 MS. GARNICA: Okay. So what the

1 question then be appropriate for this area, as far
2 as where they said that the -- the Staff agreed
3 that the production of -- to offset the
4 agricultural production that would -- that's
5 supposed to be for the offset, that they agreed
6 with Blythe Energy Project that the impact that it
7 was going to make on the amount of people that
8 were going to work was going to be at a minimal
9 percent, so therefore it was not going to make a
10 big impact?

11 So what is the question. The question
12 is, it was taken out of the amount, I think it
13 said 29,000 people, and one -- in one figure it
14 said it was .5 people was only going to impact,
15 and then another figure it said that it was only
16 going to be .2. From the 29,000 -- what I -- what
17 I want to know is --

18 PRESIDING MEMBER KEESE: I see an answer
19 coming.

20 MS. GARNICA: -- the agriculture land
21 that is going to be taken out of production,
22 people work on that land.

23 MR. FORE: My name is James Fore. And
24 what we were addressing there was that the total
25 amount of land taken out of production, in terms

1 of the agricultural land in Riverside County,
2 would be less than two-tenths of a percent of the
3 600 acres, or 650 acres. So it would be, you
4 know, less than one percent. And in the valley
5 itself, it would only be about a half a percent.

6 And then in the Riverside County
7 agricultural area, of course it's seasonal, so the
8 amount of employment varies. But in 1999 it had a
9 high of about six percent of the Riverside County
10 population was in agricultural production, in
11 terms of workforce, to a low of I think around
12 three percent in February, when it was down around
13 13,000 people that were working.

14 And so if you're going to take out less
15 than one percent of the agricultural land out of
16 production, you're not going to impact employment
17 in the agricultural sector that great.

18 MS. GARNICA: But you will.

19 MR. FORE: I doubt -- you would impact
20 about one person, in the overall county. In a --
21 in a city, you might impact a person or two, but
22 in the overall county -- you know, we have to look
23 at this in the context of -- of the, you know, of
24 the total county, because we don't have specific
25 numbers as to how many agricultural people are

1 actually employed, you know, by census tracts in
2 the agricultural area and stuff like that.

3 So it would be a very small percentage
4 impact. And, of course, the trade-off is there's
5 other employment opportunities being developed at
6 that time.

7 MS. GARNICA: For farm workers.

8 MR. FORE: Well, if they have
9 construction skills, there is potential employment
10 opportunities for them.

11 MS. GARNICA: Well, that -- that's
12 probably why I didn't understand it, because you
13 were talking about the -- about county and the --
14 I guess the project in question is in Blythe. So
15 maybe I -- I didn't understand that.

16 But so those figures are applicable only
17 to the county, countywide. And so there is no
18 figures for the impact it will make on the farm
19 workers in Blythe, when you take agriculture out
20 of production.

21 MR. FORE: Well, in the valley itself,
22 it was less than a half percent of the land will
23 be taken out of production with that 650 acres.
24 We don't have the number of farm workers in the
25 valley. The lowest level we had was in the

1 county. And I would assume that the trend would
2 be similar in the valley as it would be in the
3 county, and that they would be seasonal and it
4 would be a small percentage of the workforce in
5 the winter time, and a larger percentage in the
6 summer, as we showed in the trend in 1999. It was
7 high, I think, a little over six percent, and a
8 low of three percent. I would assume that would
9 be the same here in the valley.

10 But we have no exact figures for that.

11 MS. GARNICA: So we really don't know
12 the impact in the Blythe valley of the farm --

13 MR. FORE: Well, we put it on a employee
14 per acre. It wouldn't be one person, if I did it
15 on a per capita basis. If I took all the
16 agricultural employee and divided by the number of
17 acres in agriculture, and then took the 600 out,
18 it wouldn't be one person if we did it that way.

19 MS. GARNICA: In Blythe.

20 MR. FORE: Based on an acre basis.

21 MS. GARNICA: So that means that
22 whatever -- let's say that -- that we take out
23 certain land that -- out of production, and Staff
24 has agreed that that is land that is not being
25 worked on, then that's -- that land is not --

1 MR. FORE: Well, this land that is taken
2 out of production no longer employs farm workers.
3 But the results of taking that land out of
4 production did create jobs at the Blythe Energy
5 Project.

6 MS. GARNICA: Twenty jobs. Okay.

7 MR. FORE: Well, if -- 20 permanent jobs
8 and a large number of construction jobs.

9 MS. GARNICA: For 18 months. But farm
10 workers do that --

11 MR. FORE: Right, and then there will be
12 maintenance to the facility. And I have no idea
13 how much that will be. But there was a trade-off
14 in jobs there.

15 MS. GARNICA: Well, I -- my main thing
16 is because there's -- farm workers don't have no
17 other skill, other than farm work. And if you
18 take a farm worker that's been a farm worker for
19 60 years, and you want to train him to do
20 construction, that's -- that's going to be tough.
21 It's like taking anybody to another job area.

22 You know, because you said that you --
23 well, I guess you answered the questions, because
24 you didn't -- you said that the -- you took it
25 over all Riverside County, but you didn't take the

1 -- I guess the assessment wasn't done within the
2 valley, the Palo Verde Valley.

3 Does anybody know how many farm workers
4 we have in Blythe? Was there -- is there a number
5 that was calculated? Was there something that we
6 looked at, was there something that -- where did
7 we get that from to indicate the amount of farm
8 workers that -- that are actually here? Or do we
9 have that, or we don't have --

10 MR. GALATI: If I could just interject
11 at this point, just to make a comment.

12 The lands that are part of the Water
13 Conservation Offset Program and the Long Term
14 Irrigation Rights, those are not currently in
15 production. And so that -- those are the lands
16 that will be retired from agricultural production.
17 And they were selected in part on that basis. The
18 Final Staff Assessment was prepared prior to those
19 lands being identified, and discussed the
20 potential of other lands that were currently in
21 production. But the lands that have been
22 identified and committed to by the Applicant at
23 this stage are not in production.

24 MS. GARNICA: I don't have anymore
25 questions. Okay, I don't have anymore further

1 questions, other than we don't know how many farm
2 workers.

3 PRESIDING MEMBER KEESE: Is that the end
4 of the questions? What, you know, our -- I would
5 suggest that if you do have questions, two things.
6 They will come to us, and as with comments made by
7 members of the audience, we will attempt to
8 respond to them the best we can in -- in our
9 process.

10 As you may or may not be aware, as these
11 power plants go, the Staff holds workshops, and
12 the workshops are mainly held to answer questions.
13 So another avenue is if you submit the questions,
14 you may get some answers. Not in the formal
15 proceeding that we have here, but you may get
16 answers.

17 MS. GARNICA: Okay. And, you know this
18 hearing part, this evidentiary hearing session
19 part, then, is this process then -- it will take
20 in account those questions that I have within this
21 process? Or that is -- would that -- that would
22 be incorporated to another phase and another --

23 PRESIDING MEMBER KEESE: Yes. No, the
24 Committee, myself, the people up here, takes into
25 consideration everything said by the audience.

1 It's not -- we must make our decision based on the
2 evidence that the witnesses have given here.

3 MS. GARNICA: Yes.

4 PRESIDING MEMBER KEESE: But we take
5 into consideration the comments that are made.
6 So, yes. And what you give us will be taken into
7 consideration. It won't be evidence, but it will
8 -- you ask the questions, you raise the issues,
9 you've raised some issues tonight that there will
10 be answers to. Okay?

11 All right. Well, we made it with six
12 minutes to spare. We'll start again at 8:00
13 o'clock tomorrow morning with Biology, I believe.
14 Then our plan is if we have some time at the end
15 of that we will do stipulations. If we don't, we
16 will continue with stipulations at Thursday in
17 Sacramento. But we will -- the way we've
18 proceeded today, I'm sure that we will be able to
19 complete the Biology tomorrow.

20 And if you have, you know, if you have
21 specific questions in Biology, you might write out
22 the specific questions and have them prepared.

23 MR. GALATI: While it's on my mind, we
24 were instructed to get some information about Mesa
25 Verde, and the study on the wells. I delivered

1 those to Staff. I'd ask that they be marked as
2 Exhibit 55. It's entitled -- and I'll give you
3 copies -- it is entitled Department of Health
4 Services, January 3rd, 1996, letter entitled
5 Annual Inspection on September 29th, 1995, System
6 Number 3310028.

7 HEARING OFFICER BOUILLON: This appears
8 to be a letter report of an inspection done by the
9 State of California, Department of Health Services
10 agency. Are you asking that we take judicial
11 notice of the contents of this report, since we
12 have no live witness?

13 MR. GALATI: Yes, please.

14 HEARING OFFICER BOUILLON: All right.
15 We'll take that under submission.

16 MS. DE CARLO: Excuse me. I don't
17 believe I received a copy of that.

18 MR. GALATI: I'm sorry. I think Lance
19 has them. You were out of the room.

20 MS. DE CARLO: Oh. Thank you.

21 HEARING OFFICER BOUILLON: And if you'd
22 provide Ms. Garnica with a copy.

23 PRESIDING MEMBER KEESE: Okay. Anything
24 else?

25 MS. DE CARLO: No, nothing else. Thank

1 you.

2 PRESIDING MEMBER KEESE: Thank you.

3 Eight o'clock tomorrow morning.

4 (Thereupon the hearing was adjourned
5 at 9:57 p.m.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Hearing, nor in anyway interested in the outcome of said Hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of December, 2000.

VALORIE PHILLIPS

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